



M I N U T E S

O F

A meeting of the Freeholders of the county of
Dumbarton on the 14th and 15th of Sep-
tember 1780.

Called for the purpose of electing their Repre-
sentative in Parliament.





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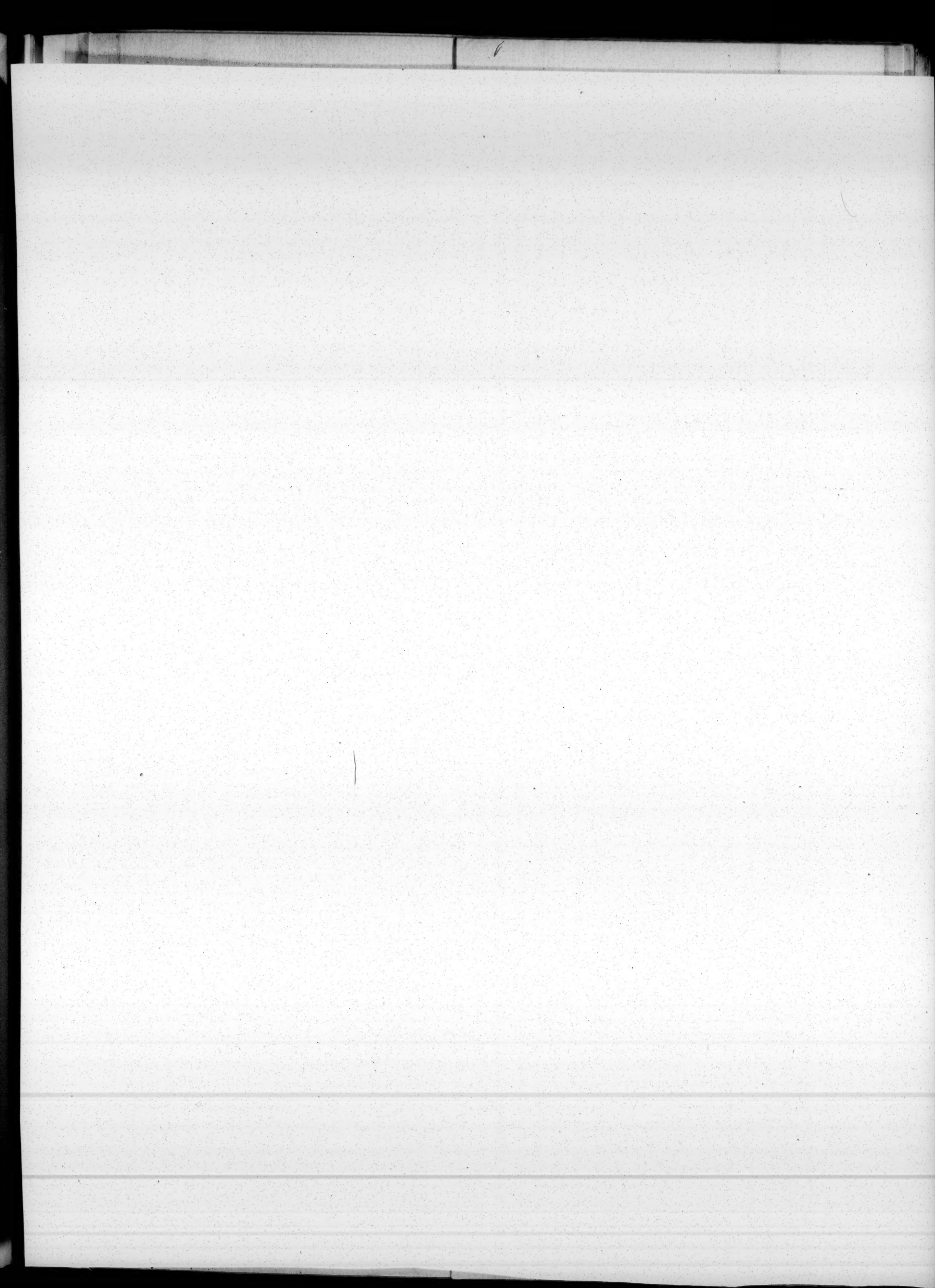
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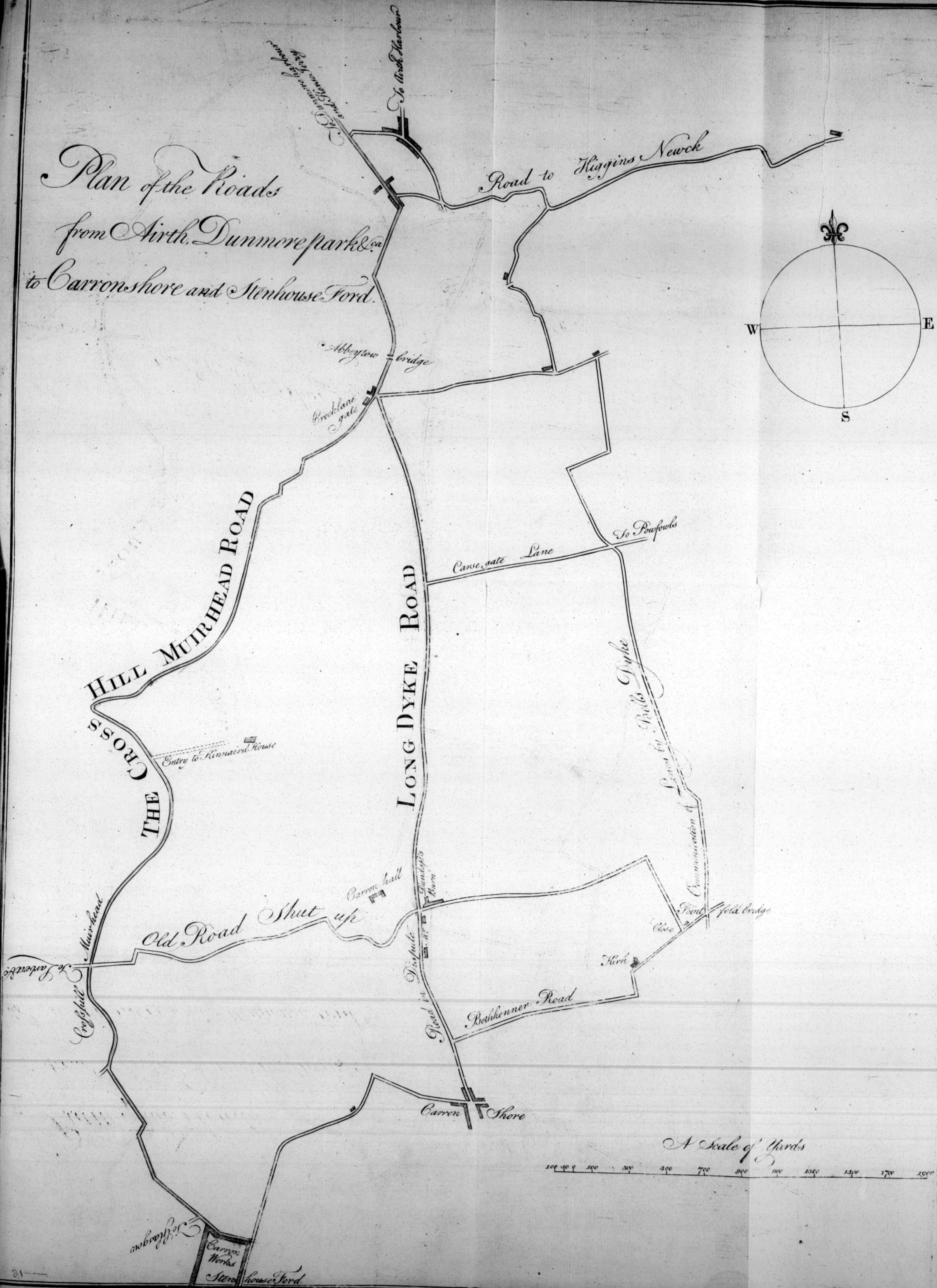
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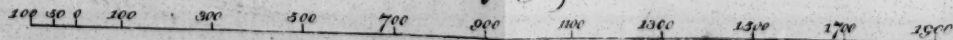




Plan of the Road
from Airth, Dunmore park & co.
to Carron shore and Steinhous Ford.



A Scale of Yards



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M I N U T E S

O F

A meeting of the Freeholders of the county of Dumbarton on the 14th and 15th of September 1780.

Called for the purpose of electing their Representative in Parliament.

S EDERUNT of the Freeholders of the shire of Dumbarton, Preamble. convened within the tolbooth of Dumbarton, in that room where the Sheriff-court uses to be held, the 14th day of September 1780 years, in order to chuse a commissioner to represent the said shire in the ensuing parliament of Great Britain. The said day James Colquhoun, Esq; of Lufs, advocate, his Majesty's sheriff-depute of the said shire of Dumbarton, produced to the freeholders of the said shire his Majesty's writ from the court of chancery, directed to the sheriff-depute of the said shire, for chusing a commissioner to represent the said shire in the ensuing parliament of Great Britain, with precepts issued by the said sheriff-depute, in consequence of the said writ, for intimating to all the freeholders in this shire to meet and convene, this place and day, for the end foresaid, together with the executions of the said precepts, bearing the same were duly executed; which writ was publicly read in presence of the meeting, as were also the said precepts and their executions: And thereafter the said sheriff-depute caused to be publicly read and published to the meeting the act of the 2d of his late Majesty King George II. intituled, *An act for the more effectually preventing of bribery and corruption in the election of members to serve in parliament*; thereafter Sir Archibald Edmonstone of Duntreath, Baronet, the member last elected, in terms of the act of parliament, as parliamentary preses, called over the roll of the freeholders of this shire, as made up at the

A

Michaelmas

Michaelmas head-court, upon the 5th October last, 1779 years, in order to chuse a preses and clerk to this meeting for election, and the freeholders upon the said roll, now present, are as follow.

Sederunt. John Noble of Noble Farm.
 Sir James Colquhoun of Lufs, Baronet.
 Mr Ilay Campbell, Advocate.
 Sir Archibald Edmonstone of Duntreath, Baronet.
 John Campbell, Esq; of Stonefield, one of the Senators of the College of Justice.
 Archibald Buchanan of Drumhead.
 William Donald of Lylestown.
 Archibald Campbell of Succoth.
 George Yuill of Darleith.
 Donald Campbell of Peiton.
 George Haldane of Gleneagles.
 James Colquhoun of Milligs.
 The Right Honourable Lord Frederick Campbell of Ardincaple.
 David Smith of Methven.
 Colin Douglas of Mains.
 John Hamilton of Barns.
 Major Charles Edmonstone, late of the 18th regiment of foot.
 Robert Bontein of Ardoch.
 James Buchanan of Catter.
 Duncan Macmillan of Dunmore.
 John Campbell, Esq; of Kipperminshoch.
 William Rouet of Auchindennan.
 James Stewart of Finnich, liferenter of Milltown, and others.
 James Fogo, writer in Edinburgh.
 John Haldane, writer there.
 The Honourable Keith Elphinstone, Esq;
 The Honourable William Elphinstone, Esq;
 Malcolm Fleming of Barrochan.
 Patrick Downie, Esq; residing at Prestonpans.
 Charles Thomson, residing in Edinburgh.
 Major-General Robert Skene of Hallyards.
 George Murdoch, Esq; sometime merchant and Lord Provost of Glasgow.
 James Ferrier, writer to the signet.



Mr William Baillie, Advocate.

Captain William Colquhoun of the 1st regiment of foot-guards.

William Baillie, surgeon in Biggar.

David Ballingall, residing in Edinburgh.

Then the said Sir Archibald Edmonstone, parliamentary preses, administered the oaths of allegiance and assurance to the whole freeholders present, who also signed the same: and the said Sir Archibald Edmonstone himself having also taken and subscribed the said oaths, which were administered to him by the sheriff-clerk, he thereupon put the question, Who should be preses, and, Who should be clerk, to this meeting? And the said Sir Archibald Edmonstone was, by a majority of voices, chosen preses, and Neil Campbell writer in Dumbarton was likewise, by a majority of voices, chosen clerk to this meeting; who each of them took the oath of allegiance, and signed the same, with the assurance; and the clerk further took the oath *de fidei*; as also the clerk took the oath required by the act of the 16th of his late Majesty King George II. intituled, *An act to explain and amend the laws touching the elections of members to serve in parliament for that part of Great Britain called Scotland*; and thereafter delivered over the said roll to the said Neil Campbell, now chosen to be clerk to the said meeting. (Sic subscribitur) A. Edmonstone.

Oaths administered.

Sir Archibald Edmonstone chosen preses.

Neil Campbell clerk.

The preses now elected having taken his place, the meeting proceeded to revise the roll of freeholders of this shire last made, and to alter and add thereto, in manner prescribed by law.

The meeting considering, that the following freeholders stand- ing upon the roll at the last Michaelmas meeting, viz. Alexander Cunnyngame clerk to the signet, Robert Buchanan of Drumakill, Archibald Edmonstone, Esq; younger of Duntreath, fiar of Milltown, and others, and William Gray, Esq; at Ofgang, are now dead, the meeting unanimously appoint the names of the foresaid persons to be expunged from the roll of freeholders of this shire now to be made up.

Roll purged.

The meeting then proceeded to purge the roll; when Mr James A. Erskine Ferrier having alledged, that Mr Archibald Erskine had renounced his life-right of the lands upon which he was inrolled, and having produced an extract of his renunciation to instruct the same, the meeting unanimously ordered his name to be expunged from the roll.

struck off.

The

Objection to
Colonel
Bruce.

The said James Ferrier then gave in the following objection against Lieutenant-Colonel, formerly Major Andrew Bruce, and produced an extract of the seisin therein referred to, viz. I James Ferrier writer to the signet, freeholder in the shire of Dumbarton, hereby object to the title of Major Andrew Bruce of the 38th regiment to stand upon the roll of freeholders in the said shire, and require the first meeting of freeholders to expunge his name from the said roll, in respect that he is denuded, and out of possession of the lands upon which he was inrolled, as appears by an extract of the seisin of Mr Robert Park, as crown-vassal therein, herewith produced.

Answer.

To which objection Mr Smith of Methven gave in the following answers, That the infetment in favour of Mr Park is no evidence whatever that Colonel Bruce is denuded; on the contrary, the seisin expressly bears, That the only parties to the transaction were Lady Clementina Fleming and Mr Park. Was the Duke of Argyle to grant a wadset of his estate of Roseneath, without concurrence of the freeholders inrolled on that estate, would that transaction, to which they were no parties, unhinge all their freehold-qualifications? At this rate, the whole freeholders might be turned off the roll by a person having no right whatever. And the question being put, Expunge, or Not? it was carried by a great majority, to expunge the name of the said Andrew Bruce from the roll.

Colonel
Bruce struck
off.

Objection to
Malcolm
Fleming.

Ilay Campbell, Esq; gave in the following objection against Malcolm Fleming of Barrochan, viz. I Ilay Campbell, Esq; Advocate, freeholder in the shire of Dumbarton, do hereby object to the title of Malcolm Fleming of Barrochan to continue on the roll of freeholders in the said shire, in respect that he is denuded of the liferent-right upon which he was inrolled, by having concurred in granting, and by accepting of a new title, to wit, a wadset to himself in liferent, and James Aitken of Kilbowie in fee, as appears from an extract of their seisin, herewith produced, and from a claim which he has lodged, to be inrolled of new upon that new title at Michaelmas next. To which objection the following answer was made by Mr Smith, That the two rights subsisting in the person of Mr Fleming are perfectly consistent; the last does not annul, on the contrary, corroborates the first.

Answer.

The

The question being put, Expunge, or Not? it was carried to expunge. Whereupon the said Malcolm Fleming gave in the following protest, viz. " At Dumbarton, the 14th day of September 1780 years. Whereas I have this day been wrongfully turned off the roll of freeholders of the county of Dumbarton, by a meeting of the freeholders of the said county convened for the purpose of electing their representative for the ensuing parliament, I do hereby declare myself ready and willing to take the oaths required by law to intitle me to vote, in so far as the same have not already been administered to and taken by me; and I hereby desire the same may now be put to me as a freeholder of the said county; and I hereby declare, That if I had not been struck off the roll of freeholders, I would have given my vote for the Honourable George-Keith Elphinstone to represent this county in the ensuing parliament, and do hereby vote for the said George-Keith Elphinstone accordingly; and require the clerk of the said meeting to insert this my protest in the minutes. Whereupon I take instruments in the hands of Laurence Hill notary-public. (*Sic subscribitur*) *Malc. Fleming.*"

Mr Fleming
struck off.
Protest.

In answer to which, it was observed by Mr Ilay Campbell, That no such protest could be of any avail, especially in the circumstances in which Mr Fleming stood; as, even if he had been upon the roll, he could not have voted at the election, being under a personal incapacity by the act 1698, c. 22. which declares, That no person who is under a personal protection from the diligence of his creditors can either elect or be elected; and it appears from written evidence produced, that Mr Fleming is in this situation.

Answer.

To this Mr Fleming replied, That the protection he had enjoyed was not of the same kind with the protections struck at by the act 1698; and further, that he had renounced his protection in terms of the statute, as appeared from an extract of the renunciation produced, registrate in the books of session the 13th day of September 1780 years.

Reply.

Mr Smith gave in the following objection against Campbell Edmonstone, and William Campbell, Esq; liferenter and fiar of the lands of Cursnoch, viz. " These gentlemen stand inrolled in virtue of their titles to the said lands of Cursnoch. Since their inrolment in July 1779, these gentlemen have disposed these lands to his Grace the Duke of Argyle, who has thereon expedite a charter thereof, referred to in a claim now before the meeting."

Objection to
liferenter and
fiar of Curs-
noch.

B

These

These gentlemen, therefore, fall to be struck off the roll. (*Sic subscribitur*) *David Smith.*"

Sustained. And no answer being made, the meeting unanimously ordered their names to be expunged from the roll.

Objection to Colonel Campbell. Mr Smith gave in the following objection against Lieutenant-Colonel John Campbell of Barbreck, viz. "That Colonel Campbell stands inrolled for the lands of Camstroddan, Colichippan, Tor, and *Tullichantaul*, in Lufs parish; the lands of Knockderry-Barbour in Roseneath parish; and the lands of Mains of Colquhoun, Dunglafs, and others, in the parish of Wester Kilpatrick, as standing rated in the cefs-roll at L. 445 : 17 : 6 Scots of valued rent.

Since Colonel Campbell's inrolment, the Duke of Montrose and Marquis of Graham have obtained a decret before the court of session, upon the 3d of August last, against the said Colonel Campbell, and others, holding the defenders as confessed, that they hold the said lands of *Tullichantaul* of the Duke of Montrose, granting certification against the writs called for, and particularly the charter under the great seal, disposition and feisin, whereupon Colonel Campbell is inrolled, rescinding the said writs, and declaring the same to be void, so far as may be extended to the said lands of *Tullichantaul*; and which decret is instantly produced.

The foresaid lands of *Tullichantaul* stand valued at L. 50.

These lands being thus found to hold of the Duke of Montrose, and Colonel Campbell's charter from the crown, and inestment, so far as concerns these lands, being reduced, it follows, that the lands fall to be withdrawn from the Colonel's qualification, and that his circumstances since his inrolment are thereby changed.

It is therefore objected, That, after deduction of L. 50 of valued rent for the lands of *Tullichantaul*, the Colonel's qualification is reduced to L. 395 : 17 : 6 of valued rent, and consequently that Colonel Campbell falls to be struck off the roll. (*Sic subscribitur*) *David Smith.*"

Colonel Campbell's valued rent.

Wester Kilpatrick.

Mains,	-	-	-	L. 164	0	0	
Dunglafs,	-	-	-	18	6	8	
Carried over,							182 6 8

Brought over, L. 182 6 8

Roseneath.

Knockderry-Barbour,	-	-	-	79	10	10
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Lufs.

Camstrodden,	-	-	L. 108	0	0
Cullichippen and Tor,	-	-	26	0	0
Tullichantaul,	-	-	50	0	0
				184	0 0

			L. 445	17	6
Deduce Tullichantaul,	-		50	0	0

Remains,			L. 395	17	6
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And no answer being made, the meeting unanimously ordered Sustained. the name of the said Lieutenant-Colonel John Campbell of Breck to be expunged from the roll.

Mr Smith next gave in the following objection against Sir James Colquhoun, viz. "Sir James's circumstances are altered, and he falls to be struck off the roll." Objection to Sir James Colquhoun.

Sir James was inrolled in virtue of his investment in the lands and barony of Lufs, and upon production of the valuation-books of the shire, by which it appeared that Lufs's lands in the parish of Lufs amounted to L. 1200 Scots of valued rent.

Sir James is now desired to condescend and say what part of this valuation remains with him.

In every valuation-book of this shire, there appears the three following articles.

Baron Macaulane's land,	-	-	L. 80	0	0
Auchintullich,	-	-	36	0	0
And the article on which Sir James was inrolled,					
Lufs land in Lufs,	-	-	1200	0	0
			L. 1316	0	0

By

By several late operations, it is now become altogether impossible to discover how much of the valuation on which Sir James was inrolled does now continue with him.

In the month of April 1773, as appears from the extract decret herewith produced, Sir James Colquhoun, in the view of creating freehold-qualifications on his entailed estate of Lufs, applied to the commissioners of supply for a subdivision of his valuation; in order to which, he thought proper to throw the three articles above mentioned together, and to subdivide the whole; which was a very great irregularity; and had it been attended to at the time, would have been an effectual bar against the inrolment of William Baillie, Esq; and Captain William Colquhoun; because it is perfectly evident, that by throwing Baron Macaulane's lands and Auchintullich in with the *cumulo* of Lufs, and subdividing the whole anew, a different valuation was given to these lands than had been fixed down upon them at the general valuation.

After having subdivided his valuation, Sir James disposed to William Baillie, Esq; certain lands; the valuation whereof extended to

L. 441 3 11

And he disposed to Captain William Colquhoun lands

valued at

453 14 3

L. 894 18 2

And when the valuation of these are deducted from the L. 1200 Scots, on which *alone* Sir James was inrolled, the valuation remaining with him is greatly under the legal amount.

But, independent of this, the division of the valued rent of the barony of Lufs, by which alone the valuation of the lands remaining with Sir James is ascertained, is totally irregular, and affords *no evidence whatever* of the *real* valuation of his lands.

In place of subdividing the three articles above mentioned separately, which ought to have been done, Sir James threw them all together, and made his division in proportion to their proven real rents.—By this means the valuation of Baron Macaulane's lands, and of Auchintullich, is totally altered from what it was originally; and the valuation of Lufs land has, in like manner,

manner, undergone an alteration; and as the valuation of Baron Macaulane's and Auchintullich is divided over the whole, a part of it must now be laid on those parts of the barony of Luss retained by Sir James.

Errors from which it cannot be shown that injustice has been done, or that the real proportion of valuation has been altered, may, and in this county, where divisions have always been made in a loose manner, must be overlooked. But an error of the present kind is of a different sort; for it is perfectly evident, that its direct effect is to vary the proportion of valued rent fixed on certain lands at the original valuation.

The objection, therefore, to Sir James, appears to be well founded, That by his subdivision there has been divided upon the lands retained by him a *cumulo* valuation to which he had no right.

But, separately, it will be observed, that on those parts of the subdivision on which alone Sir James Colquhoun can claim to stand, there are included a great variety of cot-houses, on which valuation has been allocated to the extent of L. 31, 19 s.; and there is also included a public inn or stage-house, on which there is laid L. 31, 8 s.; these two sums amounting together to L. 63, 7 s. It will at first sight occur to the freeholders, that these subjects are a most improper security for the cess; and it cannot with any propriety be maintained, that a person's title to subjects of this kind, to cot-houses and inns, should give him as much valuation or constitutional influence as the right to lands, or superiorities, which, in the eye of the law, are the same with rights of property. The excess of Sir James's valuation above L. 400 Scots, even by his own decret, if a decret it can be called, is only L. 20, 16 s.; and when the above L. 63, 7 s. for the cot-houses and the inn is deduced, he is greatly within the legal amount.

It is therefore submitted, that Sir James falls to be struck off: and as the evidence of this objection, there is produced an extract of the decret of division; and the cess-books, and minutes of enrolment of William Baillie and Captain William Colquhoun, are referred to, as also the minutes of Sir James's enrolment. (*Sic subscribitur*) David Smith."

C

To

Answer. To which objection Sir James made answer, "That he stands inrolled upon the whole barony of Lufs, which includes Baron Macaulane's lands and Auchintullich; and although the minute of his inrolment happens only to mention the valued rent of part of the barony, that can never import that he was inrolled upon part, and not the whole of the barony. It seldom happens that the true valued rent is mentioned either in the claim or inrolment, or in the act itself, it being thought sufficient to mention that the lands are upwards of L. 400 Scots of valuation; and it never was imagined till now, that doing so could be construed a restriction of the claim and inrolment to neat L. 400. With regard to the objection against the division, That the commissioners had made one division in place of three, the commissioners saw good cause for doing so at the time; and as no hurt is done to any person, the freeholders cannot overturn the division on that account."

Objection re-
pelled.

The question being put, Expunge, or Not? it was carried by a majority of voices, not to expunge.

Objection to
William
Baillie.

The following objection was given in by Mr Smith against William Baillie, Esq; viz. "In this gentleman's qualification there are included the lands of Inistavanach, valued at L. 8 : 12 : 8: he was inrolled in virtue of a disposition to the liferent of these and certain other lands from Sir James Colquhoun; but as the lands of Inistavannach are not held by Sir James of the crown, but of the Duke of Montrose, a decret of reduction has been obtained of Mr Baillie's title since his inrolment, at the instance of his Grace, and is now produced to the meeting.

It is very true, that after deducing this article, there appears to remain with Mr Baillie more than the legal valuation; but as Mr Baillie's circumstances are altered by the decret of reduction of his right to Inistavannach, the freeholders ought now to enquire whether he has any right to continue on the roll. It is apprehended he has not, for the reasons already stated in the objections to Sir James Colquhoun."

Answer.

The same answer was repeated that was made by Sir James Colquhoun; and it was added by Mr Baillie, that taking off the valuation of Inistavanach, he had still more than L. 400; and consequently there is no sufficient alteration of circumstances to

Objection re-
pelled.

intitle the freeholders to expunge him from the roll? — The question being put, Expunge, or Not? it was carried, not to expunge.

Objection to
Lord Frede-
rick Camp-
bell.

Mr Smith gave in the following objection against Lord Frederick Campbell, viz. "Lord Frederick has altered his circumstances, and

and does therefore fall to be struck off the roll. Lord Frederick was inrolled upon the following lands: The four-merk land of Wester Ardincaple; the four-merk land of Easter Ardincaple; the four-merk land of Middle or Mains of Ardincaple, with the mill of Ardincaple, *multures*, and sequels, manor-place, and other pertinents of the same, office of bailiery, and teinds parsonage and vicarage of the said respective lands, all lying within the regality of Lennox, parish of Row, and shire of Dumbarton. The charter on which Lord Frederick was inrolled, bears date the 10th December 1761; and it contains the following exception from the foresaid lands of Ardincaple, which does not appear from his Lordship's inrolment:

Excepting the inns, stables, and other buildings made by Archibald Duke of Argyle, upon that part of Ardincaple called the Cairndow, near the Gairloch, on the opposite shore from the Isle of Roseneath, together with the ground of the houses, stables, yards, &c. as fenced off and inclosed, all contained in a renunciation by Lord Frederick to his father Duke John, dated the 1st day of August 1761, and registrate in the books of session the 23d day of November thereafter.

His Lordship's claim for inrolment sets forth, That the valued rent of his lands amounts to L. 479:6:8 Scots money, and their old extent to L. 8 Scots, as ascertained by the Lennox retour, and by a retour of Alexander Macaulay of Ardincaple, 22d April 1618.

By a contract of excambion herewith produced, it appears, Aug. 17. & that, of these dates, the late Andrew Fletcher of Salton disponed^{29. 1778.} to Lord Frederick, four and a half acres of his lands and farm of Ardinconnel, *held by him of a subject-superior*; and on the other part, Lord Frederick dispones to Mr Fletcher, his heirs and assignees, all and whole that part of the *Old-Ferry acre*, at the point of Row, which is not included in the foresaid four and a half acres now belonging to his Lordship, or within the line of march thereof, but lies without the said line, and upon the east side thereof; as also all and whole the servitudes of *pasturage* of cows, and *thirlage*, belonging to him the said Lord Frederick Campbell, as proprietor of the mill of Ardincaple, and of the said ferry of Row, over and upon the said Andrew Fletcher, Esq; his lands of Ardinconnel, lying within the parish of Row, and shire of Dumbarton. This contract contains a mutual obligation to *infeft de me or a me de superiore meo*.

It

It has been already seen, that Lord Frederick was inrolled, not only in virtue of his right to the lands, but to the mill of Ardincaple, multures and sequels, and other privileges and pertinents. It appears therefore, that, by the disposition above mentioned in favour of Mr Fletcher, of the right of thirlage on Ardinconnel, and multures, payable for the same, to the mill of Ardincaple, he has altered his circumstances, even laying the disposition of the Ferry-acre out of the question.

But as it will not be disputed, that the Ferry-acre, which lies in the vicinity of his Lordship's seat of Ardincaple, is a part of these lands, and as it has been conveyed to Mr Fletcher, his Lordship has thereby further diminished his title, and *altered his circumstances*; and the freeholders have a right to inquire, whether his Lordship has any title to continue on the roll.

That he has no title to continue in virtue of the old extent of the lands, is evident. With much submission, he never had a title to be inrolled in virtue of the extent. By the statute of the 16th of the late King, it is provided, That no division of the old extent made since the 16th September 1681, or to be made in time coming, by retour, or any other way, is or shall be sustained as sufficient evidence of the old extent.

His Lordship's title on which he was inrolled shows, that he had no right to the whole lands of Ardincaple. His Grace the Duke of Argyle had right to a part of them; and as it is impossible the old extent can be divided, the retour founded on can afford no evidence of the extent of the part retained by Lord Frederick.

It seems equally plain, that, at present, his Lordship has no title to vote in virtue of his valuation; and that he must, in the mean time, be struck off the roll. The valuation of the lands of Ardincaple, as appears from his Lordship's claim, is L. 479, 6 s. 8 d. Scots; and at this rate these lands must have stood valued since the year 1740, when, in consequence of a sale by Aulay Macaulay, Lord Frederick's predecessor in these lands, to Alexander Macarthur of Ardinconnel, the valuation of the parts sold was, upon the private agreement of the parties, ascertained to be L. 265 Scots; which being struck off from Ardincaple's *cumulo* in the cess-books, there remained L. 479 : 6 : 8 Scots. In this valuation, therefore, must be included the valued rent of the Cairndow, at present the property of the Duke of Argyle; and, till

till a division took place, it is, with much submission apprehended, that Lord Frederick's real valuation was not ascertained, and that he had no title to be inrolled.

The freeholders however did inrol him; but as his Lordship's circumstances have since undergone an alteration, and the title in virtue of which he was inrolled has been further diminished, by his disposing a part of the subjects contained in his charter to Mr Fletcher of Salton, the objector must be excused for insisting, that Lord Frederick shall now be struck off.

The instrument of seisin in virtue of which Lord Frederick was inrolled, is produced. (*Sic subscribitur*), *David Smith.*"

To which it was answered, "1st, That the exception of the inn ^{Answer.} and bit of ground, which do not much exceed the size of the room where the meeting are convened, cannot possibly diminish either the old extent, or the valued rent of the estate of Ardincaple: for it is well known to many of the freeholders present, that this inn, stables, and bit of ground, in place of being a subject of profit, have ever been a burden upon the Duke of Argyle, to whom they belong; for they have never yielded one farthing of rent; on the contrary, his Grace has always been obliged to hire people to possess them free of rent, and this besides the burden of keeping them in repair. This is not a singular case; every person who has travelled in the highlands of Scotland must be sensible, that this often happens in that country. It will also be attended to by the meeting, that this exception was known to the meeting of freeholders who inrolled Lord Frederick; so that there is not a pretence for saying, that it has altered his circumstances in any shape. 2dly, As to the excambion, that is, exchange, with Mr Fletcher, it was clearly a profitable transaction for this estate of Ardincaple, in so far as Lord Frederick acquired four acres and a half from Mr Fletcher, and added them to that estate, and, in return, gave to Mr Fletcher one acre called *Ferry acre*, which never belonged to the estate of Ardincaple. The only subjects given to Mr Fletcher from the estate of Ardincaple, were the servitudes of pasturage of cows, and multures belonging to the mill of Ardincaple, upon Mr Fletcher's lands of Ardinconnel; and the lands got from Mr Fletcher were more than equivalent to these servitudes, and also to the bit of ground upon which the inn and stables stand. It was therefore submitted, that there had been no alteration of

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circumstances.

circumstances sufficient to intitle the freeholders to expunge Lord Frederick's name from the roll."

Objection re-
pelled.

The question being put, Expunge, or Not? it was carried by a great majority of votes not to expunge.

William
Craig inrol-
led.

A claim was then presented to the meeting for William Craig, Esq; Advocate, in virtue of a liferent-title to certain superiorities, the fee whereof belonged to Sir Archibald Edmonstone. Mr Craig was inrolled without objection.

Claim of
Baillie Camp-
bell.

There was produced a claim for Colin Campbell, bailie of Roseneath, for being inrolled; and the following titles were produced for him.

Imprimis, Charter under the great seal, in favour of John Duke of Argyle, and his heirs therein mentioned, of all and whole the dukedom of Argyle, comprehending therein the lands and others after mentioned, viz. All and whole the lands and barony of Roseneath, with the castles, towers, fortalices, manor-places, houses, biggings, yards, orchards, mills, mill-lands, multures, woods, forests, banks, parks, islands, lochs, fishings, tenants, tenantries, and services of free tenants, annexes, connexes, dependencies, parts, pendicles, and pertinents of the same whatsoever, lying in the sheriffdom of Dumbarton: As also all and haill the lands and barony of Rachane, comprehending the particular lands and others under mentioned, viz. the lands of Rachane-more *alias* Meikle Rachane, *alias* Over Rachane, Rachanbeg *alias* Little Rachane, *alias* Nether Rachane, and Knockderrybarbour, lying within the parish of Roseneath, and shire of Dumbarton, with the haill houses, buildings, yards, orchards, mills, woods, fishings, mosses, muirs, parts, pendicles, and haill pertinents of the same whatsoever; which charter contains precept of feisin, and other usual clauses, and is dated the 23d day of February 1774, sealed the 9th day of March thereafter.

Item, Disposition of these parts and portions of the lands and barony of Roseneath, commonly known by the names of Little Aiden, Meikle Aiden, Kilcraigins, and Ailie, with the pertinents; and also that part and portion of the lands and barony of Rachane, called Rachanebeg, *alias* Little Rachane, *alias* Nether Rachane, with the pertinents, granted by the said John Duke of Argyle, in favour of the said Colin Campbell in liferent, for his liferent-use only, during all the days of his lifetime, and containing assignation to the precept of feisin in the foresaid charter,

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ter, so far as concerns the said lands, and other usual clauses, dated 13th August 1779.

Item, Instrument of feisin following upon the said charter and disposition, in favour of the said Colin Campbell, dated 18th August 1779, registered in the particular register of seifins for the shire of Dumbarton, the 19th day of the same month.

Item, Charter under the great seal, in favour of Sir Archibald Edmonstone of Duntreath, Baronet, and his heirs and assignees whatsoever, heritably and irredeemably, of the lands therein mentioned, and particularly the lands after specified, viz. All and whole that just and equal half of the forty-three shilling and four-penny land of Milltown of Duntochar, with the parsonage-teinds of the same, and houses, biggings, yards, tofts, crofts, mosses, marshes, annexes, connexes, meadows, pasturages, and all other parts, pendicles, and pertinents thereto belonging, as the same were sometime possessed by James Donald, Patrick Keilloch, and John Macaulane, lying within the parish of Wester Kilpatrick, lordship and barony of Kilpatrick, and shire of Dumbarton; which charter contains precept of feisin, and other usual clauses, and is dated the 3d day of July, and sealed the 29th day of August, 1773.

Item, Disposition of the said just and equal half of the forty-three shilling and four-penny land of Milltown of Duntocher, with the parsonage-teinds and pertinents of the same, granted by the said Sir Archibald Edmonstone, in favour of the said Colin Campbell in liferent, for his liferent-use only, during all the days of his lifetime; and containing assignation to the precept of feisin in the foresaid charter, so far as concerns these lands, and other usual clauses, dated the 13th day of August 1779.

Item, Instrument of feisin following upon the said charter and disposition in favour of the said Colin Campbell, dated the 16th day of August 1779, registrate in the particular register of seifins kept at Dumbarton the 17th day of the same month.

Item, Certificate by two commissioners and the clerk of supply of the said shire, showing the valued rent of the lands belonging to the claimant to be above L. 400 Scots money, and which valuations do also appear from the cess or valuation books of the shire.—And therefore the said Colin Campbell, as liferenter of the foresaid lands in virtue of the foresaid writs, claimed to be put, and stand on the roll of freholders for the said shire.

To

Objection.

To which claim the following objection was given in, viz. "Part of the Bailie's qualification is founded on the valued rent of the half of the forty-three shilling and four-penny land of Milltown of Duntocher, of which Sir Archibald Edmonstone has obtained a charter from the crown, on the resignation of Alexander and James Donalds, proceeding on the supposal that these lands were church-lands. But the fact is, that these lands are not church-lands: for though the Milltown of Duntocher was originally part of the abbacy of Paisley, and was feued out by the convent to the authors or ancestors of the Donalds; yet it appears, that on the 29th June 1697 James Donald obtained a charter of the half of the Milltown from William Hamilton of Orbieston, who had come in place of Lord Abercorn, the lord of erection of the abbacy of Paisley. This charter bears, That these lands were resigned in Orbieston's hands, "pro nova investitura et sasina earundem moræ et formæ subsequen." It contains a *Novodamus* by Orbieston to Donald, "pro certis pecuniarum summis." It grants to the vassal the special privilege of selling, "sine consensu superioris;" which consent was formerly necessary; and it declares the lands to be held, "de me, hæredibus masculis et talliæ et successoribus, in infeofamentis nostris dominii de Kilpatrick content. omni tempore futuro, sine regressu, ad S. D. N. Regem, vel quemlibet alium superiorem, virtute quorumcunque actorum parliamenti vel legum hujus regni dat. fact. vel faciend." On this charter Donald was infeft; and an extract of the charter from the record of the probative writs in the books of session, dated 17th February 1780, is herewith produced.

This charter of *Novodamus*, whereby the right of holding of the crown was expressly renounced, and the lands turned from church-lands to temporal lands, has ever since been the title of possession; and James Donald, the last proprietor, was accordingly entered in January 1756, by the late William Lord Blantyre, Orbieston's successor, by charter of confirmation and precept of *Clare constat*.

Sir Archibald Edmonstone, however, with a political view, in the 1772 and 1774, obtained dispositions of these lands from the said James Donald, and his subvassal Alexander Donald; and although he received up the fore-recited charter 1695, as a part of his progress, from which he must have seen, that these lands had not the privilege of holding of the crown; yet he thought proper, in

in 1775, to take a charter from the crown, proceeding upon the acts annexing the superiority of church-lands to the crown: but no infeftment was taken on this charter till in August 1779, that Sir Archibald conveyed the liferent of these lands to Bailie Campbell, who was infeft on the charter 1775.

The present Lord Blantyre, on being informed of this infeftment, applied to Sir Archibald to give up his claim to this superiority; and as this was denied, his Lordship has brought a declarator, which is now depending in court, against Sir Archibald, Bailie Campbell, and their authors the Donalds, for ascertaining his right to this superiority. This process, with Lord Blantyre's special service and infeftment, are herewith produced. From the above, it is clear, that Sir Archibald Edmonstone, and consequently his dispoſee, have no right to hold of the crown; and that the charter was improperly and surreptitiously obtained from exchequer.

The following answers were given in for the said Colin Campbell, viz. The clause alluded to can never have the effect contended for. Had the lord of the erection taken out a new charter from the crown, either upon the resignation of the church-vassal, or with his consent specially interponed, this would perhaps have secured the right of superiority to the lord of erection, in terms of the exception in the act 1661, which says, "Be it always declared, That notwithstanding of this act, any who have gotten or who shall get any new infeftments of superiority of kirk-lands, the same shall stand good as to such vassals who have given their consent to the said right of superiority, in regard that such a consent as to his Majesty, is of the nature of a resignation of their property in favour of the said superior to be holden of the King." But a consent passing between the vassal and the lord of erection, without any communication with the crown, is not such a consent as was required by the act 1661: and so it was argued in a late case very similar to the present between the Duke of Gordon and Lord Fife, 4th March 1773, where the vassal prevailed both in the court of session and house of Lords. *2dly*, However available such a consent might be in a question with the party himself who accepted of the charter in these terms, or his heirs representing him, the transaction is not binding against a singular successor in the lands. The clause founded on, although it appears in the charter, does not appear in the infeftment which followed on that charter, nor in

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any of the subsequent titles; so that the claimant had no access to see it; and as he purchased on the faith of the public law, he has nothing to do with any latent qualification of the right in the person of a former vassal whom he does not represent. This point also occurred in the question between the Duke of Gordon and Lord Fife, and there is no material difference between the two cases.

Bailie Campbell inrolled. And the question being put, Inroll, or Not? it was carried to inroll the said Colin Campbell; whereupon instruments were taken in the hands of the clerk.

Claim, Donald Campbell younger of Barbreck. Donald Campbell, Esq; younger of Barbreck, claimed to be inrolled, and produced the following titles.

Imprimis, Charter under the great seal, in favour of John Duke of Argyle, and his heirs therein mentioned, heritably and irredeemably, of all and whole the five-merk land of old extent of Duchlaff, with the pertinents of the same, lying in the lordship and parish of Roseneath, and sheriffdom of Dumbarton; together with the mill now built thereon, multures and sequels thereof; which charter contains precept of feisin, and other usual clauses, and is dated the 23d day of February, and sealed the 9th day of March 1774.

Item, Disposition and wadset of the said lands of Duchlaff, with the pertinents above mentioned, granted by the said John Duke of Argyle, in favour of Lord Frederick Campbell, and his heirs and assignees whatever, heritably, but redeemable, and under reversion always, the said lands and mill, with the pertinents, by the said Duke, and the heirs succeeding to him in the estate and dukedom of Argyle, by his investitures thereof from the said Lord Frederick Campbell, and his forefairs, by payment to him or them, or consignment for their behoof, of the sum of L. 500 Sterling, at and upon the term of Martinmas 1781 years, or any other term of Martinmas thereafter, between the hours of eleven and twelve before noon; upon premonition always of forty days preceding any such terms to be made to the said Lord Frederick Campbell, or his forefairs, personally, or at their dwelling-places, if within North Britain; and if forth thereof, at the market-cross of Edinburgh, pier and shore of Leith, sixty days preceding any such term, in presence of a notary and witnesses, in common form; which disposition and wadset contains assignation to the precept of feisin in the aforesaid charter, in so far as concerns

concerns the said lands, and other clauses, and is dated the 11th day of July 1779.

Item, Disposition and assignation, granted by the said Lord Frederick Campbell to the said Donald Campbell, of the said lands of Duchlafs, with the pertinents, redeemable in manner foresaid; which disposition contains assignation to the unexecuted precept of feisin above mentioned, contained in the charter, and to the wadset before recited, and other clauses, and is dated the 16th July 1779.

Item, Instrument of feisin, in favour of the said Donald Campbell, following upon the precept of feisin contained in the foresaid charter, and upon the wadset and assignation thereof before mentioned, dated the 27th, and registrate in the particular register of feisins kept at Dumbarton the 28th, days of July 1779 years.

Item, Retour of the special service of John Campbell of Carrick, as heir of Colin Campbell, his grandfather, dated the 6th day of August 1663, whereby the said lands of Duchlafs are retoured to a five-merk land of old extent; and therefore the said Donald Campbell, as wadsetter of the foresaid lands, claimed to be put and stand on the roll of freeholders of the said shire.

Mr Smith gave in the following objection.

“ The lands of Duchlafs, on which the claimant craves to be in-
rolled, were formerly dispoed and belonged to Lord Frederick
Campbell in liferent, and to Lord William Campbell in fee, re-
deemable, the fee, for payment of a certain sum of money. Lord
William accordingly expedite a charter from the crown, and, of
this date, was infeft thereon, under the burden of Lord Frede-
rick Campbell's liferent, and his feisin recorded in the particular
register of this date. An extract of this feisin is herewith pro-
duced. Objection.
Aug. 20. 1762.
Aug. 21.

Lord William Campbell died some time ago, before the lands were redeemed. Till, however, the lands were redeemed, the fee evidently remained in his *hereditate jacente*. Of this date, it would
appear, that the Duke of Argyle expedite a charter of his whole estate, on his own resignation: and though, it is believed, Lord William Campbell was at this time alive, and the lands of Duchlafs still remained vested in his person, and unredeemed, his Grace thought proper to include these lands in his charter, without any warrant from him. It is evident, however, that the
Feb. 23. 1774.
right

right to the lands stood elsewhere; and that his Grace, by throwing the name into this charter, had no more a right to these lands, than he would have had by including in his charter the dukedom of Lenox, or any other subject to which he had no title.

- While the lands still remained *in hereditate jacente* of Lord William, his Grace, of this date, granted a wadset of them to Lord Frederick Campbell, redeemable for payment of L. 500 Sterling; and which wadset contains an assignation to the precept of feisin in the above-mentioned charter, which is improperly denominated a charter of the lands of Duchlafs; though, if it comprehended any thing, it is plain it could comprehend no more than the right the Duke had to resign, viz. his personal right to the reversion of these lands. Lord Frederick afterwards, of this date, conveyed the lands, the charter, and the wadset, to the claimant, who was infeft on the precept in the charter. In the mean time, however, as it was quite clear, that the right to these lands remained with the heir of Lord William Campbell, and not with his Grace, the usual steps were taken for divesting Lord William's heir, and for investing the Duke. Accordingly, of this date, a decret was obtained against William Campbell, the only son and heir of Lord William, finding the lands properly redeemed, and ordaining the said William Campbell to make up titles in his person to the wadset, and to denude thereof in favour of the Duke. This decret was followed with a special charge against Lord William's heir, charging him to enter in the said lands; and thereupon, of this date, a decret of adjudication in implement was obtained; on which his Grace obtained a charter of adjudication, of this date; and infeftment possibly may have since followed on this charter. From this deduction, it is clear, that the charter on which the claimant was infeft did not carry any right to the lands of Duchlafs: and though an attempt has since been made to patch up a title in favour of the Duke, yet this cannot supply the defect; and though perhaps it may be argued, that it ought to accresce to the infeftment in favour of the claimant; yet it could only validate his infeftment from the date of the Duke's infeftment; and as a year has not since then elapsed, he is not yet intitled to be put upon the roll. A charter of confirmation draws back to the infeftment confirmed; but it will not be pretended, that the year is to run from the date of the feisin confirmed, but

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of the charter by which it is validated. A *fiar infest* in like manner under a reserved power in favour of another to revoke and alter, is only intitled to vote after a year from the registration of the renunciation of such powers, by which his infestment is validated. As evidence of the objection, there are produced extract of Lord William Campbell's *seisin*, and an extract of adjudication against his apparent heir; and the minutes of Lord William's inrolment are also referred to.

The said Donald Campbell made answer, That the objection Answer. stated against his inrolment is clearly *jus tertii* to the freeholders, as it resolves into an investigation, not of his titles, but of the title of his author, which they have no right to do.

The question being put, Inrol, or Not? it was carried by a great majority to inrol the said Donald Campbell; whereupon instru- Donald Campbell in-rolled. ments were taken in the clerk's hands.

John Campbell, junior, merchant in Glasgow claimed to be in-rolled, and produced the following titles. Claim of John Campbell junior.

Imprimis, Charter under the great seal in favour of John Duke of Argyle, and the heirs-male of his body; whom failing, to the other heirs succeeding to him in the estate and dukedom of Argyle, heritably and irredeemably, of all and whole the fifty-shilling land of old extent of Cursnock, with all and singular houses, biggings, yards, parts, pendicles, and pertinents of the same whatsoever, lying within the parish and isle of Roseneath, and shire of Dumbarton, as the same were some time possessed by Archibald Campbell of Rachan, heritable tenant and vassal therein, and his subtenants, or others in his name, and of certain other lands and heritages therein mentioned; which charter contains precept of *seisin* and other clauses, and is dated the 6th, and sealed the 12th days of August 1779. *Item*, Disposition of the said lands of Cursnock, particularly above mentioned, granted by the said John Duke of Argyle, in favour of the said John Campbell junior, in *liferent*, for his *liferent-use* only, during all the days of his lifetime, under this declaration, that the feu-rights of the said lands are reserved to the vassals as formerly, and reserving to the Duke himself, and his heirs contained in the charter under the great seal above mentioned, the fee of the said lands, in the manner more fully mentioned in the said disposition, which contains assignation to the precept of *seisin* in the foresaid charter, in so far

as concerns the said lands, and other clauses, and is dated the 13th day of August 1779.

Item, Instrument of feisin following thereupon, and upon the precept of feisin contained in the foresaid charter thereby assigned, dated the 18th, and registrate in the particular register of feisins for the shire of Dumbarton, kept at Dumbarton, the 19th days of August 1779.

Item, Retour of the special service of John Campbell of Carrick, as heir of Colin Campbell his grandfather, dated 6th August 1663; whereby the said lands of Cursnock are retoured to a fifty-shilling land of old extent; and therefore the said John Campbell, as liferenter of the foresaid lands, claimed to be put and stand on the roll of freeholders for the said shire.

Objection.

Mr Smith objected, That the old extent and feu-duty are the same, viz. L. 2, 10 s. Scots, as appears from the claimant's charter. The act expressly declares, "That the old extent shall be distinct from the feu-duties or feu-lands;" and the court of session have accordingly very properly found, That where the old extent and feu-duty were of the same amount, they were not distinct, and that the claimant was not intitled to be inrolled.

Answer.

It was answered for the said John Campbell, That the old extent is clearly and distinctly retoured, and that the objection falls to be repelled; and the question being put, Inrol, or Not? it was carried by a great majority to inrol the said John Campbell; whereupon instruments were taken in the clerk's hands.

Oaths administered to the four last claimants.

Then the oaths of allegiance and assurance were administered to, taken, and signed by the said William Craig, Colin Campbell, Donald Campbell, and John Campbell.

Captain Colin Campbell

A claim was presented for Captain Colin Campbell of the 92d regiment of foot, claiming to be inrolled, in virtue of a liferent-right to certain superiorities derived from Lord Stonefield. Captain Campbell was inrolled without objection.

William Adam, Esq;

William Adam, Esq; of Woodstown, was next inrolled, in virtue of titles derived from the Honourable William Elphinstone; And

Honourable Henry Erskine inrolled.

The Honourable Henry Erskine Advocate, in virtue of titles derived from James Marquis of Graham; both without objection.

Lieutenant-General Henry Fletcher claimed to be inrolled, and produced the following titles.

Charter

Charter under the Union seal, in favour of James Marquis of Graham, and his heirs therein mentioned, of the dukedom, earl-^{Claim of General Fletcher.} dom, lordship, and barony of Lenox, comprehending the lands and other heritages particularly and generally therein specified; and, amongst others, the four-pound land of old extent of Letteruelbeg, and Stuckahoich, with all and sundry castles, towers, fortalices, manor-places, houses, buildings, yards, orchards, meadows, pasturages, mills, multures, and their sequels, woods, free-forests, and fishings of salmon and other fishes, tenants, tenancies, and services of free tenants, and all and sundry pertinents of the same, lying within the sheriffdoms of Stirling and Dumbarton respectively, all to be holden blanch of the crown, and which charter is dated the 3d July 1779. That the said James Marquis of Graham, by his disposition dated the 6th August 1779, granted, alienated, and disposed to the said Lieutenant-General Fletcher, the claimant, in liferent, during all the days of his life, the lands and others particularly before and after mentioned, being part of the said dukedom, earldom, lordship, and barony of Lenox, viz. all and whole the foresaid four-pound land of old extent of Letteruelbeg and Stuckahoich, with houses, biggings, yards, orchards, mosses, muirs, meadows, woods, fishings, sheelings, grafings, multures, sequels, and whole other privileges and pertinents of the said lands, lying within the dukedom and late regality of Lenox, and sheriffdom of Dumbarton; and by which disposition the said James Marquis of Graham assigned and made over to the claimant the foresaid charter, in so far only as concerned the liferent of the said lands of Letteruelbeg and Stuckahoich, with the pertinents thereof, with power to the claimant to obtain himself infeft in liferent therein, by virtue of the precept of seisin contained in the said charter.

That in virtue of the said charter and precept of seisin therein contained, and of the foresaid assignation thereto, the said Lieutenant-General Henry Fletcher, the claimant, was infeft in the said four-pound land of old extent of Letteruelbeg and Stuckahoich, with the pertinents thereof, as specified in the said disposition conform to the claimant's instrument of seisin, dated the 9th, and recorded in the particular register of seisins kept at Dumbarton the 10th days of August 1779 years.

That the said lands of Letteruelbeg and Stuckahoich, with the pertinents, are a four-pound land of old extent, as will be instructed

structed by the retour of the special service of Charles Duke of Lenox and Richmond, as heir of Esme Duke of Lenox and Richmond in the said dukedom of Lenox, dated the 24th April 1662, or other legal document.

That by virtue of these titles, the claimant conceived he had a right to be inrolled as a freeholder of the county of Dumbarton.

The following objections were offered by James Ferrier writer to the signet, against the inrolment of the said Lieutenant-General Henry Fletcher.

Objection.

" I James Ferrier writer to the signet, one of the freeholders of the shire of Dumbarton, do hereby object to the inrolment of Lieutenant-General Henry Fletcher as a freeholder in the said shire, upon this ground, that the retour produced for him does not prove the old extent of the lands upon which he claims. It is true it says, that the old extent of the whole dukedom of Lenox, is L. 517 : 3 : 4. But the retour does not shew in what manner this *cumulo* extent was made out, or what was the old extent of each tenement or parcel of lands contained in the descriptive part of the retour, and consequently does not prove what was the old extent of the claimant's lands, which are only a small part of the dukedom. The description of the lands by pounds and merks, does not infer that these were the old extents of the lands thus described ; and it will be made evident, that the descriptions, which do not correspond with the total in the valent clause, were taken from the tax-rolls, and not from the old extent. This appears from the tax-rolls themselves, as well as from the retour of Elisabeth Monteith in 1473, as heir in one fourth of the ancient earldom of Lenox, from the retour of Alexander Macaulay of Ardincaple in 1618, from comparing the amount of these pretended old extents with the valued rents of the lands, and from many other circumstances.

Also it appears by the said retour of Alexander Macaulay, in 1618, that the said lands of Letteruelbeg and Stuckahoich are feu-lands retoured to the feu-duty."

Mr Erskine gave in the following answers for Lieutent-General Henry Fletcher.

Answer.

" In order to prove that the lands on which General Fletcher claims to be inrolled are a four-pound land of old extent, he has produced no less than three separate retours, prior to 1681, of the dukedom of Lenox, to wit, one in 1625, another in 1655, and

and the third in 1662, in the descriptive clause of each of which the lands in question are described to be a four-pound land. It is indeed true, that the express words, "old extent," are not used; but it is impossible that any thing else than the old extent could be meant, for this evident reason, that the sum at which the old extent of the whole lands composed in the earldom are retoured in the valent clause, amounts to L. 517 : 3 : 4, and the sum-total of the different lands in the descriptive clause is L. 515 : 16 : 8, so that there is only the trifling difference of L. 1 : 6 : 8 between the two. Had the two sums coincided exactly, there could not have been a doubt that the sums mentioned in the valent clause were the old extent of the respective lands; and on this very principle the freeholders have already sustained those parts of the same retours that regard the barony of Kilmaronock as evidence of the old extent of particular parts of that barony, which they could do only on this footing, that the *cumulo* and the sum of the particular lands were the same; for in the descriptive clause of one of the parcels of the barony of Kilmaronock, the words "old extent" do not occur; so that the only difference between the retour of the lands of Kilmaronock, and those of Lenox, is the coincidence of the *cumulo* with that of the particular lands. Now if this coincidence would have been sufficient to prove the sums mentioned in the descriptive clause of the Lenox retours to be the old extent, it is perfectly clear the trifling discrepancy of L. 1, 6 s. 8 d. in L. 500 cannot alter the case: and accordingly in a question which occurred in the year 1745 from this county, the court of session over-ruled this very objection, and expressly found, that the descriptive parts of the Lenox retour was legal evidence of the old extent of the different lands mentioned therein: and accordingly from that time to this, both in Dumbarton and Stirling shire, these very retours have been regularly received and sustained to this effect, and freeholders have been inrolled again and again in both counties, without any other evidence of their old extent; and sundry freeholders so inrolled now stand upon the roll of this county. It is not, therefore, believed that the freeholders will allow an objection, solemnly over-ruled more than thirty years ago by the court of session, to lead them to disregard the clear evidence arising from the retour, to fly in the face of a judgement of the supreme court, and to destroy at once a retour which has been for so many years past held as legal evidence.

dence of the old extent, and trusted in by the freeholders accordingly, and on the faith of which lands have been bought and sold.

As to the argument founded on the retour of Elifabeth Monteith, it is perfectly futile. It amounts to this, that because the old extent in that retour, which is of one fourth of the earldom of Lenox, amounts to but L. 125, while the old extent in the Lenox retour now founded on, which contains two fourths of the earldom of Lenox, is between L. 400 and L. 500; therefore the description of the lands in this retour by pounds, merks, &c. cannot mean to point out the old extent, but must be some other valuation; and the objector is pleased to suppose, that the jury had the new extent in view, having taken the same from the taxed rolls 1613, to be found in the records. To this it is altogether sufficient to answer, That nothing can be drawn from any disproportion between the old extent of Elifabeth Monteith's fourth of the old earldom, and the two fourths which compose the present dukedom; *1st*, Because there is, in fact, no fixed proportion between the real rent of the lands and the old extent; *2^{dly}*, Because there may have been considerable additions to the dukedom between the date of Elifabeth Monteith's retour and those now founded on; and, at any rate, it is altogether absurd to set up an old general retour of one parcel of lands, to destroy the legal evidence arising from three latter consecutive retours of different lands, and that too from strained arguments, founded on a supposed proportion between real rent and old extent, which does not exist in fact. But what at once puts an end to the whole argument is, that in fact the lands contained in Elifabeth Monteith's retour are but those parts of the fourth of the old earldom that lay in the county of Dumbarton, while the lands contained in the retours now founded on are the whole lands in the retour lying both in Dumbarton and Stirling shire, as appears from the retours themselves, particularly Elifabeth Monteith's, which mentions the service to have proceeded before the sheriff of Dumbarton. As to the supposition, That the jury took the new extent from the tax-roll, it is without foundation, it being well known, that the new extent was never used as a rule for levying taxes, which were uniformly proportioned by the old extent: so that if the jury described the lands from the tax-rolls, the sums they are described by could be nothing else but the old extent.

As

As to the retour of Ardincaple, it shall only be observed, That although it contains some of the lands in the Lenox retour, and gives some of them a different old extent; yet as to some others it expressly describes them by the same old extent they have in the Lenox retour. It therefore proves, that some of the lands in the Lenox retour are described by the old extent, and consequently the whole description must apply to the old extent; for it is utterly impossible that in the same retour one parcel of lands could be described by the old and another by the new extent.

As to the *second* objection, That the old extent is not retoured distinct from the feu-duties, it is sufficient to answer, That it is the retour of Ardincaple that is produced to prove this; which retour can show nothing but the feu-duty paid by the vassal to the family of Lenox; but the old extent in the Lenox retour never could be confounded with the feu-duties, because the family of Lenox held the lands blanch and not feu of the crown.

The question being put, Inrol, or Not? it was carried by a majority of votes, Not to inrol the said Lieutenant-General Fletcher. Claim refused.

Whereupon he entered the following protest. Protest. "Whereas my claim to be inrolled as a freeholder of the county of Dumbarton has been this day wrongously rejected by a meeting of the freeholders of the said county, convened for the purpose of electing their representative to parliament, I do hereby declare myself ready and willing to take all the oaths required by law to intitle me to vote; and I desire the same shall now be put to me, as a freeholder of this county. And in the event of their not being so put, I do hereby declare, that if I had been inrolled I would have given my vote for the Honourable George-Keith Elphinstone to represent this county in the ensuing parliament; and I do hereby vote for the said Honourable George-Keith Elphinstone accordingly, and require that the clerk shall insert this my protest in the minutes. Whereupon I take instruments in the hands of Laurence Hill notary-public. (Signed) *Henry Fletcher*."

Andrew Houston, Esq; of Jordanhill, claimed to be inrolled, Claim, Andrew Houston, Esq; and produced the following titles.

The claimant stands infeft and seised in liferent, during all the days of his life, in all and whole the lands and others following, viz. All and whole the lands called the Wester Mains of Kirkintulloch, as the same stand rated in the cess-books at L. 200 Scots of valued rent; and all and whole the lands of Badcow or Badgow,

Badgow, as the same stands rated in the cess-books at L. 200 Scots, and the duties payable by the vassal for one half of these lands at two pounds ten shillings and eleven pence Scots of valuation: As also all and whole the lands called Rountreepark, as possessed by John Waddell, together with the teind-sheaves, and other teinds, as well parsonage as vicarage, of the said lands, and haill parts, pendicles, and pertinents of the same, lying within the earldom of Wigton, lordship and barony of Cumbernauld, parish of Lenzie, and shire of Dumbarton, conform to a charter of resignation, comprehending the foresaid lands, and others, under the great seal, in favour of the Right Honourable Lady Clementina Fleming of Biggar and Cumbernauld, dated the 3d July 1779, written to the seal, and registered the 23d, and sealed, at Edinburgh, the 24th day of the same month; and to a disposition of the lands and others particularly before described, granted by the said Lady Clementina Fleming, with the special advice and consent of the Right Honourable Charles Lord Elphinstone, her husband, in favour of the claimant in liferent, during all the days of his life; which contains a clause of absolute warrandice, excepting as to the feu-charters and infeftments of the property of the said lands, teinds, and others, and the tacks of the said teinds granted by the said Lady Clementina Fleming, and her predecessors or authors, to the vassals therein, or their predecessors or authors, an assignation to the precept of seisin contained in the said charter, in so far as concerns the said lands, and others, particularly before described, and several other clauses; and is dated the 16th August 1779, and conform to an instrument of seisin in favour of the claimant, following upon the precept of seisin in the said charter, and assignation thereof above mentioned, dated 17th August 1779, and registered in the general register of seifins, at Edinburgh, the 19th day of the same month; which lands, and others, wherein the claimant stands infeft as aforesaid, are rated in the cess-books of the shire of Dumbarton, at L. 406 : 17 : 3 Scots of valued rent, over and above the valuation of the feu-duties payable by the vassal in one half of the said lands of Badcow, which stand valued, as aforesaid, at L. 2 : 10 : 11 Scots of valuation, as will be instructed by a certificate under the hands of two of the commissioners, and the clerk, of supply, of the said shire; and will also appear from the cess or valuation books themselves. The said Andrew Houston,

Houston, as liferenter, and in possession thereof, does therefore claim to be inrolled in the roll of freeholders of the said shire of Dumbarton.

The said James Ferrier gave in the following objection.

Objection.

I James Ferrier writer to the signet, one of the freeholders of the shire of Dumbarton, do hereby object to the inrolment of Andrew Houston, Esq; of Jordanhill, as a freeholder in the said shire, upon these grounds: That the lands of Badcow, contained in Mr Houston's claim, make part of the forty-merk land of Bord, upon which Peter Buchanan has lodged a claim to be inrolled.

Bord.

The Honourable Henry Erskine, and Mr Smith, gave in the following answers: 1st, No evidence produced, that there is any person infeft in the lands of Bord: 2^{dly}, No evidence produced, that the lands claimed on are part of the lands of Bord: 3^{dly}, The infeftment in Mr Buchanan's claim is said to be registrate more than a month posterior to the seisin in favour of the claimant; and therefore it is impossible it can hurt him.

Answer.

Mr Ilay Campbell replied, 1st, That Mr Buchanan's infeftment in the lands of Bord is on record; and his claim to be inrolled having been lodged with the sheriff-clerk, a copy thereof is produced, and the clerk, who is present, is ready to produce the principal if desired. 2^{dly}, It appears from Lady Clementina Fleming's charters, particularly one on record, dated the 6th August 1773, and whereof an unsigned copy, made by one of the clerks in chancery is produced, that the lands claimed on are part of the forty-merk land of Bord.

Reply.

The question being put, Inrol, or Not? it was carried, Not to inrol the said Andrew Houston; whereupon he entered the following protest. At Dumbarton, the 14th September 1780 years. I Andrew Houston, Esq; of Jordanhill, whereas my claim to be inrolled a freeholder of the county of Dumbarton has been this day wrongously rejected by a meeting of the freeholders of said county, convened for the purpose of electing their representative to parliament, I do hereby declare myself ready and willing to take all the oaths required by law, to intitle me to vote; and I desire the same shall now be put to me as a freeholder of this county: and, in the event of their not being so put, I do hereby declare, that, if I had been inrolled, I would have given my vote for the Honourable George-Keith Elphinstone to represent

Claim refused.

Protest.

sent this county in the ensuing parliament; and I do hereby vote for the said Honourable George-Keith Elphinstone accordingly: and require, that the clerk shall insert this my protest in the minutes. Whereupon I take instruments in the hands of Laurence Hill, notary public. (Signed), *Andrew Houston*.

Mr Hamilton
of Withaw,
and others,
inrolled
without ob-
jection.

Claims were then presented to the meeting for Robert Hamilton, Esq; of Withaw; Robert Dundas, Esq; younger of Blair; and James Baillie, Esq; at Biggar, in virtue of titles derived from Lady Clementina Fleming; all of whom were inrolled without objection.

Claim of
George
Loch, Esq;

George Loch, Esq; of Drylaw, claimed to be inrolled, and produced the following titles.

The claimant stands in feist and seised in liferent, during all the days of his life, in all and whole the lands and others following, viz. the lands of Auchinvole, Auchindavie, Garnagabar, or Garnagabet, Jacksyd, and Sir Andrew's house, and two acres thereto belonging, with an yearly annualrent of six merks Scots, to be uplifted forth of the town and territory of Kirkintulloch, as the said lands stand rated in the cess-books under the name of Auchinvole, Auchindavie, and Gartnagabet, or Garnagaber, at L. 295 Scots, and the duties payable by the vassals at L. 1:2:3 Scots of valuation: As also all and whole the lands of Twechar, as the same stand valued in the cess-books at L. 106:13:4 Scots, and the duties payable by the vassals in one fourth part of these lands at L. 1, 11 s. Scots of valuation: As also all and whole the lands called Gains Acre and Horsebogknow, and Easter and Wester Meadow, as the same stand rated in the cess-books at L. 4:7:1 Scots of valued rent; together with the teind-sheaves and other teinds, as well parsonage as vicarage, of the lands and others before described, and haill parts, pendicles, and pertinents of the same; all lying within the earldom of Wigton, lordship and barony of Cumbernauld, parish of Lenzie, and shire of Dumbarton; conform to a charter of resignation comprehending the foresaid lands, under the great seal, in favour of the Right Honourable Lady Clementina Fleming of Biggar and Cumbernauld, dated the 3d July 1779, written to the seal, and registered the 23d, and sealed at Edinburgh the 24th day of the same month; and to a disposition of the lands and others particularly before described, granted by the said Lady Clementina Fleming, with the special advice and consent of the Right Honourable Charles Lord Elphinstone, her husband, in favour of the

claimant

claimant in liferent, during all the days of his life, which contains a clause of absolute warrandice, excepting as to the feu-charters and infeftments of the property of the faid lands, teinds, and others, and the tacks of the faid teinds granted by the faid Lady Clementina Fleming, and her predeceffors or authors, to the vaffals therein, or their predeceffors or authors, an affignation to the precept of feifin contained in the faid charter, in fo far as concerns the faid lands and others particularly before described, and feveral other clauses, and is dated the 16th day of Auguft 1779; and conform to an instrument of feifin in favour of the claimant, following on the precept of feifin in the faid charter and affignation thereof, above mentioned, dated the 17th day of Auguft 1779, and registered in the general register of feifins at Edinburgh, the 19th day of the fame month; which lands and others wherein the claimant ftands publicly infeft, as aforefaid, being rated in the cefs-books of the fhire of Dumbarton at L. 406, 5 d. Scots, and the feu-duties payable by the vaffals at L. 2:13:3 Scots of valuation, as will be inftructed by a certificate under the hands of two of the commiffioners and the clerk of fupply of the faid fhire, and alfo by the cefs or valuation books themfelves; the claimant, the faid George Loch, as liferenter, and in poffeffion thereof, did therefore claim to be inrolled in the roll of freeholders of the faid fhire of Dumbarton.

The faid James Ferrier objected to the inrolment of the faid George Loch, as a freeholder in the faid fhire, in regard that Peter Buchanan of Silver Banks ftands infeft in the forty-merk lands of Bord, and has lodged a claim to be inrolled as a freeholder, which forty-merk land of Bord includes the lands contained in the claim of the faid George Loch; and as both rights flow from the fame author, it muft be fettled in a legal manner, which is beft, before either can be admitted by the freeholders.

Objection.
Bord.

The Honourable Henry Erskine and Mr Smith repeated the answer to the objection to Mr Houfton, with this addition to both, that the fact alledged, that the lands in the claimant's titles are part of the lands of Bord, is denied; and the freeholder objecting is called upon to produce the evidence on which he founds. Upon which Mr Ferrier produced a copy of a charter in favour of Lady Clementina Fleming, dated 6th Auguft 1773,

Answer.

in

in support of the objections, and says he is able to bring further evidence of it if necessary *.

Mr Loch's
claim refused.

The question being put, Inrol, or Not? it was carried not to inrol the said George Loch; whereupon he entered a protest similar to the protest of Andrew Houston.

Claim of Neil
Ferguson,
Esq;

Neil Ferguson, Esq; Advocate, claimed to be inrolled, and produced the following titles, viz. The claimant stands infeft and seised in liferent, during all the days of his life, in all and whole the lands called *Netherwood*, comprehending, as parts thereof, twelve acres or thereby of the Dullator bog; which lands were originally feued out by the trust-disponees of the late John Earl of Wigton to William Ruffel of Arns: as also in all and whole the lands called *Hollinhirst*, as the said whole lands stand rated in the cess-books at L. 242 Scots of valued rent: as also in all and whole the lands of Hole, as possessed by William Moffat; the lands of Vault, as possessed by John Shaw; the lands of Greenyards, as possessed by John Stark and James Provan; the lands of Garnharr, as the same stand now rated in the cess-books at L. 31 : 11 : 7 Scots of valued rent; and the lands of Whitelees, as possessed by James Stirling; together with the teind-sheaves, and other teinds, as well parsonage as vicarage, of the said lands and others, and whole parts, pendicles, and pertinents thereof; all lying within the earldom of Wigton, lordship and barony of Cumbernauld, parish of Lenzie, and shire of Dumbarton, conform to a charter of resignation, comprehending the foresaid lands and others, under the great seal, in favour of the Right Honourable Lady Clementina Fleming of Biggar and Cumbernauld, dated the 3d day of July 1779, written to the seal, and registered the 23d, and sealed at Edinburgh the 24th days of the same month; and to a disposition of the lands and others particularly before described, granted by the said Lady Clementina Fleming, with consent of the Right Honourable Charles Lord Elphinstone, her husband, in favour of the claimant in liferent, during all the days of his life; which contains a clause of absolute warrandice, excepting as to the feu-charters and infeftments of the property of the said lands, teinds, and others, granted by

* N. B. There is not in the charter, of which an unsigned copy was produced, one word, or one syllable, tending to show that Mr Loch's or Mr Houston's lands are part of the forty merk land of Bord.

the said Lady Clementina Fleming to the vassals therein, or their predecessors or authors ; an assignation to the precept of feisin in said charter, in so far as concerns the lands and others particularly before described, and several other clauses ; and is dated the 16th day of August 1779 ; and conform to an instrument of feisin, in favour of the claimant, following on the precept of feisin in the said charter, and assignation thereof above mentioned, dated the 17th, and registered in the general register of feisins at Edinburgh the 19th days of August 1779 ; which lands, and others wherein the claimant stands infest, as aforesaid, are rated in the cefs-books of the shire of Dumbarton at L. 407, 8 s. Scots of valuation, as will be instructed by a certificate under the hands of two of the commissioners, and the clerk of supply of the said shire, and also will appear from the cefs or valuation books themselves ; the said Neil Ferguson, as liferenter, and in possession thereof, does therefore claim to be inrolled in the roll of freeholders of the said shire of Dumbarton.

The said Mr Ilay Campbell gave in the following objections.

" I Ilay Campbell, Advocate, one of the freeholders of the shire of Dumbarton, do hereby object to the inrolment of Neil Ferguson, Esq; as a freeholder of the said shire, upon the following grounds. The great bulk of Lady Elphinstone's estate having formerly stood in the land-tax books under a *cumulo* article of L. 2407 : 7 : 6 Scots, in the name of the Earl of Wigton's lands or barony, her Ladyship, with a view to make fictitious votes upon it, obtained first one division of this *cumulo* in 1773, and then a second division in 1779. But it does not seem to have been attended to, that certain considerable feus had been granted by the family of Wigton at different times *subsequent* to the general valuation. The feu and teind duties payable for these are to a pretty large amount, all the lands which formerly belonged to the family in the parish of Kirkintulloch or Wester Lenzie being now feued, some of them at high feu-duties, nearly equal to the rent at the time, such as half a crown yearly for each acre ; and as these lands, before they were granted in feu, stood valued under the *cumulo* of the rest of the estate, so it is clear, that, to the extent of these feu and teind duties, payable to the family of Wigton after the feus were made, they still continued under said *cumulo*. Accordingly this is proved by a certificate, herewith produced, under the hands of the schoolmaster of Kirkintulloch,

Objection.
New feu-du-
ties.

containing a valuation-roll of the parish of Wester Lenzie or Kirkintulloch, taken from the said use of payment, and bearing, That the family of Wigton have always paid schoolmaster's salary, and other burdens in said parish, according to a valuation of L. 376 : 13 : 4 Scots; and that the land-tax for that article has likewise been in use to be transmitted by them to the county-collector, along with that of their property-lands in the parish of of Cumbernauld or Easter Lenzie. As Lady Elphinstone has no property in the parish of Kirkintulloch or Wester Lenzie, it is plain, that this article of L. 376 : 13 : 4 can only apply to the teind and feu duties arising to her out of the feued lands in the said parish; and therefore, as it must make a part of the *cumulo* of L. 2407 : 7 : 6 already mentioned, there being no separate article for these feu and teind duties, it is equally clear, that a share of the said *cumulo* corresponding to L. 376 : 13 : 4, ought to have been allotted to these feu and teind duties in the division. But the fact is, that in making the late division, the whole *cumulo* has been apportioned upon the property-lands belonging to Lady Elphinstone in Cumbernauld parish, without giving any part of it to the said feu and teind duties; so that these property-lands of which Mr Ferguson's is a part, have just got L. 376 : 13 : 4 of valuation more than they ought to have received, and the voters to whom qualifications have been given upon these lands, have consequently got a great deal more valuation than they were intitled to; and when the proper deduction is made, most of them, particularly the claimant, will be reduced under L. 400 Scots of valuation, at least until a proper rectification is made by a new division of this *cumulo* giving these feu and teind duties their due proportion, it cannot be proved, that the claimant has the extent of valuation that intitles him to be new-inrolled: and this affords a good objection to the present claim; especially as a summons of reduction has been raised, and is ready to be insisted in beginning of next session, for setting aside that erroneous decret of division."

Answer. Mr Ferguson made the following answers. *1st*, "The decret of division on which the certificate of the claimant's valuation is founded, affords evidence of the valued rent, which the freeholders are not intitled to challenge. *2^{dly}*, Though it is unnecessary to make any other answer to this than what is above stated, it may be further observed, that the objection is supported by no sort of evidence. *3^{dly}*, Lady Clementina Fleming never was in use to pay
cess

cess for the feu-duties of lands feued since the general valuation; and it is believed no other superior in Scotland is in use to do it. It is perfectly well known, that the cess is always laid upon the property of the lands feued; and that the superior is not in use to pay any cess for the feu-duty. This is the case with Lady Clementina Fleming's feus, as indeed with every other. And the schoolmaster, who it may be observed is an old man above three score, and entirely failed in his faculties, does not even certify the fact, that Lady Clementina Fleming was in use to pay cess for the feu-duties alluded to. She never was in use to pay cess for them; and no other superior is in use to do it. The case of the feu-duties of lands feued prior to the general valuation is widely different. The supply-acts appoint them to be valued, and accuracy required that they should be struck off from the *cumulo*."

The question being put, Inrol, or Not? it was carried not to inrol the said Neil Ferguson. Whereupon he entered a protest similar to the one entered by Andrew Houston. Mr Ferguson's claim refused.

A claim was then presented to the meeting for Ambrose Tibbets, Esq; of Carron Company, in virtue of titles derived from Lady Clementina Fleming.——He was inrolled without objection. Ambrose Tibbets inrolled.

A claim was then presented to the meeting for Richard Fisher, Esq; at Loretto, upon titles similar to these formerly narrated, produced for Mr Andrew Houston. And, Claim, Richard Fisher, Esq;

The said James Ferrier objected to the inrolment of the said Richard Fisher in the roll of freeholders of the said shire on the following grounds, That the lands of Easter Gartshore, upon which he claims to be inrolled, are part of the forty-merk land of Bord, disposed to Peter Buchanan of Silverbanks, who has also entered a claim to be inrolled; and therefore the claimant cannot be inrolled till it is cleared up to the freeholders, who has the best right to the said lands of Bord, as has been found in other similar cases by this meeting. Objection. Bord.

Mr Erskine repeated the same answer which was made for Mr Houston and Mr Loch. And the question being put, Inrol, or Not? it was carried not to inrol the said Richard Fisher. Whereupon he entered a protest similar to the one entered by Andrew Houston, Esq; * Answer. Claim refused.

Vide the note at the bottom of p. 32. respecting Mr Loch's claim, equally applicable here.

Captain

Claim of
Captain
Stewart.

Captain John Stewart, second son of the late James Stewart of Blairhall, claimed to be inrolled, and produced the following titles.

The claimant stands infest and seised heritably, but under reversion, in manner mentioned in the contract of wadset after specified, in all and whole the lands of Woodaley or Woodoly, and the lands of Wellflat, as the same stand valued *in cumulo* in the cess-books under the name of Woodoly, at L. 100 Scots of valued rent, and the duties payable by the vassals in these lands at L. 3 : 9 : 8 Scots of valuation: As also all and whole these parts of the Mains of Cumbernauld, possessed by the Honourable John Elphinstone, as the same stand rated in the cess-books at L. 65 : 6 : 8 Scots of valued rent: And also all and whole these parts of the Mains of Cumbernauld following, viz. Lochbar park, two parks below Mainhead, Kirkpark, Meadow to the north of Birkwell meadow, Mains park, Ward park, Southwood, or Vaultglen, Whitelee park, and Dinfwood, as the same stand rated in the cess-books at L. 95 : 16 : 6 Scots of valued rent: Also all and whole the lands of Milton, Craig, and Brokenquarter, with the mills of Lenzie and Fannyfide, mill-lands, multures, sucken, and sequels, as possessed by David Wilson; the lands of Carrickstoun and Burnmuir, as possessed by James Brash; the lands called Graham's-dike farm, or Toll-park, as possessed by Robert Sawers; the lands called Braidstane, as possessed by James and John Loggie; the lands of Holehead, as possessed by William Thomson; and the lands of Holebraehead and Garnerland, as possessed by Robert Horn and John Ewing; together with the teind-sheaves and other teinds, as well parsonage as vicarage, of the said lands and others, and haill parts, pendicles, and pertinents of the same; all lying within the earldom of Wigtoun, lordship and barony of Cumbernauld, parish of Lenzie, and shire of Dumbarton; conform to a charter of resignation of the said lands and others, under the great seal, in favour of the Right Honourable Lady Clementina Fleming of Biggar and Cumbernauld, dated the 3d day of July 1779, written to the seal, and registered the 23d, and sealed, at Edinburgh, the 24th day of the same month; and to a contract of wadset, dated the 28th August and 10th September 1779, entered into between the said Lady Clementina Fleming with the special advice and consent of the Right Honourable Charles Lord Elphinstone her husband, upon the one part, and

the claimant upon the other; whereby the said Lady Clementina Fleming, with advice and consent of the said Charles Lord Elphinstone, sold, wadset, and disposed, to the claimant, and his heirs and assignees, the lands and others particularly above mentioned, heritably, but under reversion, and redeemable by the said Lady Clementina Fleming, and her heirs therein mentioned, on payment or consignation of the sum of L. 60 Sterling in manner therein specified: which contract of wadset contains an assignation to the precept of seisin contained in the foresaid charter under the great seal, in so far as can be extended to the lands and others particularly before mentioned; a clause of absolute warrandice, excepting as to the feu-charters and infeftments of the property of the said lands, teinds, and others, and tacks of the said teinds granted by the said Lady Clementina Fleming, and her predecessors or authors, to the vassals therein, or their predecessors or authors, and several other clauses; and conform to an instrument of seisin in favour of the claimant, following on the precept in the said charter, in virtue of the said assignation, dated the 11th, and registered in the general register of seissins, at Edinburgh, the 13th days of September 1779; which lands, and others, wherein the claimant stands infeft as aforesaid, being rated in the cess-books of the shire of Dumbarton at L. 406 : 1 : 7 Scots of valued rent, and the duties payable by the vassals in the lands of Woodale, including Wallflat, at L. 3 : 9 : 8 Scots of valuation; as will be instructed by a certificate under the hands of two of the commissioners and the clerk of supply of the said shire, and will also appear from the valuation-books themselves. The said John Stewart did therefore claim to be inrolled in the roll of freeholders of the said shire of Dumbarton.

The said James Ferrier gave in the following objections.

“ I James Ferrier writer to the signet, one of the freeholders of the shire of Dumbarton, do hereby object to the inrolment of John Stewart, second son of the late James Stewart of Blairhall, as a freeholder in the said shire, upon these grounds. *1mo*, The land of Wadaley, upon which Mr Stewart claims, make part of the lands of Bord, upon which Peter Buchanan has lodged a claim to be inrolled. *2do*, Mr Stewart's seisin having been only registered upon the 13th September 1779, one year had not elapsed from that time to the teste of the writs for calling this new parliament;

Objection.
Bord.

Teste of writ.

parliament ; and therefore by the act of the 12th of Queen Anne, sess. 1. cap. 6. § 1. he has no title to vote in the present election."

Mr Erskine and Mr Smith made the following answers.

Answer.

" To the *first* objection the former answer to the objection to Mr Loch is repeated. To the *second*, The act 12th of Queen Anne, in so far as respects this objection, is virtually repealed by the act of the 16th George II. ; and was so found by the court of session in the question between Buchanan of Carbeth, and Cunningham of Ballandalloch, 17th January 1755."

Reply.

The said James Ferrier repeated the reply made in the case of Andrew Houston. And the question being put, Inrol, or Not? it was carried, not to inrol the said Captain John Stewart. Whereupon he entered a protest similar to the one entered by Andrew Houston.

Claim refused.

Claim, William Colquhoun.

William Colquhoun of Kenmure claimed to be inrolled, and produced the following titles.

The claimant stands in feist in liferent during all the days of his life, in all and whole these parts and portions of the new-land mailing, and burrow-rood lands of the town and burgh of Kirkintulloch, as the same are now, or were lately, belonging to, or possessed by, the persons following, viz. that one acre belonging to John Scott, *as the same stands valued in the cess-books at L. 4, 10 s. Scots of valued rent* ; that one acre belonging to William Dun, *as the same stands valued in the cess-books at L. 4, 10 s. Scots of valued rent* ; that 1 acre 2 roods and 22 falls belonging to James Hendrie, *as the same stands rated in the cess-books at L. 7 : 7 : 6 Scots of valued rent* ; that 1 acre 3 roods 20 falls belonging to William Cooper, *as the same stands rated in the cess-books at L. 8 : 8 : 9 Scots of valued rent* ; these 2 roods belonging to Andrew Ruchkil, *as the same stand valued in the cess-books at L. 2, 5 s. Scots of valued rent* ; these 2 acres and 3 roods belonging to Robert Somerville, *as the same stand rated in the cess-books at L. 12 : 7 : 6 Scots of valued rent* ; these two roods belonging to John Jervie, *as the same stand rated in the cess-books at L. 2, 5 s. Scots of valued rent* ; these 2 acres 1 rood and 20 falls belonging to James Steven, *as the same stand rated in the cess-books at L. 10 : 13 : 10 Scots of valued rent* ; that 1 acre belonging to William Lang, *as the same stands rated in the cess-books at L. 4, 10 s. Scots of valued rent* ; that 1 acre belonging to Thomas Rankine and Walter Yuill, *as the same stands rated*

rated in the cefs-books at L. 4, 10 s. Scots of valued rent; these 8 acres and 1 rood belonging to Robert Galloway, as the same stand rated in the cefs-books at L. 37 : 2 : 7 Scots of valued rent; these 3 roods belonging to James Hay and John Wylie, as the same stand rated in the cefs-books at L. 3 : 7 : 6 Scots of valued rent; that 1 acre and 20 falls belonging to Alexander Nisbet, John Connell, and James Mitchell, as the same stand rated in the cefs-books at L. 5 : 1 : 3 Scots of valued rent; these 2 acres belonging to John Buchanan, William Walker, and John Macvey, as the same stand rated in the cefs-books at L. 9 Scots of valued rent; that 1 acre belonging to William Harvie, as the same stands rated in the cefs-books at L. 4, 10 s. Scots of valued rent; these 4 acres and 2 roods belonging to Thomas Nisbet, as the same stands rated in the cefs-books at L. 20, 5 s. Scots of valued rent; as also all and whole the lands called Easter Mains of Kirkintulloch, and meadow thereof, as the same stand rated in the cefs-books at L. 266 : 13 : 4 Scots of valued rent; together with the teind-sheaves, and other teinds, as well parsonage as vicarage, of the said lands, and whole parts, pendicles, and pertinents, thereof; all lying within the earldom of Wigton, lordship and barony of Cumbernauld, parish of Lenzie, and shire of Dumbarton; conform to a charter of resignation, comprehending the foresaid lands and others, under the great seal, in favour of the Right Honourable Lady Clementina Fleming of Biggar and Cumbernauld, dated the 3d day of July 1779, written to the seal, and registered the 23d, and sealed, at Edinburgh, the 24th day of the same month; and to a disposition of the lands and others particularly before described, granted by the said Lady Clementina Fleming, with the special advice and consent of the Right Honourable Charles Lord Elphinstone, her husband, in favour of the claimant in liferent, during all the days of his life, which contains a clause of absolute warranty, excepting as to the feu-charters and infeftments of the property of the said lands, teinds, and others, and the tacks of the said teinds granted by the said Lady Clementina Fleming, and her predecessors or authors, to the vassals therein, or their predecessors or authors; an assignation to the precept of feisin contained in the said charter, in so far as concerns the lands and others particularly before described, and several other clauses; and is dated 28th day of August 1779; and conform to an instrument
of

of feisin in favour of the claimant, following on the precept of feisin in said charter; and the said assignation thereof, dated 31st August, and registered in the general register of feisins at Edinburgh the 3d September 1779; which lands, and others wherein the claimant stands infest as aforesaid, being rated in the cess-books of the shire of Dumbarton at L. 407 : 7 : 3 Scots of valuation, as will be instructed by a certificate under the hands of two of the commissioners and the clerk of supply of the said shire, and will also appear from the cess or valuation books themselves, the said William Colquhoun, as liferenter, and in possession thereof, does therefore claim to be inrolled in the roll of freeholders of the said shire of Dumbarton.

Objection.

The said James Ferrier gave in the following objection. "I James Ferrier, one of the freeholders of the shire of Dumbarton, do hereby object to the admission of William Colquhoun, Esq; upon the roll of freeholders of the said shire, upon the following grounds. The town of Kirkintulloch stood in the land-tax books under a *cumulo* valuation of L. 1167, 10 s. Scots. Under this *cumulo* was included, not only the town-property, so called, consisting of houses, yards, and borough-roods, but also a more extensive territory or common good, originally feued along with it, and consisting of thirty-three and a half small farms, called new-land mailings, from twenty to thirty acres each; the whole erected into a burgh of barony, holding of the family of Wigton for payment by the bailies of 10 merks Scots of feu-duty. These borough lands and mailings have for a long time been possessed by a number of subvassals holding of the town. The bailies and council are elected from the proprietors of the new-land mailings; and they have been in use to levy and proportion the land-tax, and other burdens, upon the several properties included under said *cumulo*. This they have done in somewhat of an arbitrary manner, laying the chief load upon the houses and borough-acres. Thus they levy from the borough-acres and roods at the rate of L. 4, 10 s. Scots of valued rent for each acre; and a new land-mailing they value only at four times that rate, making it equal to four acres, though consisting of twenty or thirty acres. On the other hand, they consider a house and yard as an acre or two acres, though perhaps not the tenth part thereof. Lady Elphinstone, in order to make votes upon the superiority of this town of Kirkintulloch, applied in 1773 to the commissioners of supply for a division of the *cumulo*, setting

ting forth, That she stood inest, as representing her father John Earl of Wigtoun, in the said town and lands of Kirkintulloch, consisting of the new-land or muir mailings, and the burgh-rood lands; and which, under the denomination of the town of Kirkintulloch, stand valued *in cumulo* at L. 1167, 10 s. Scots: That the feuers to whom this town and lands now belonged in property, had separate and distinct valuations put upon their several lands in their rights and title-deeds, according to which they and their authors in the said lands had immemorially paid cefs and other public burdens; but as there had hitherto been no regular subdivisions of the valuation, therefore praying, that a committee might be appointed to take the necessary steps for making such division. Accordingly this was done; and the plan followed was, to take the use of payment as the rule: and had this plan been followed out in a proper manner, the division might have been sustained, however unequal the mode of payment had been. But a very glaring mistake appears to have been fallen into by not attending to the distinction between real and hypothetical acres. The person who conducted the business having got a list of the subfeuers names, with the proportion of cefs in use to be paid by each; and having been told that this was at the rate of L. 4, 10 s. Scots of valued rent, per acre; he accordingly appears to have gone to work upon these *data*; and not only made a division of the *cumulo*, but new-modelled each man's estate, allowing him precisely the number of acres, and no more, which corresponded to the sum of his valuation at the rate aforesaid; though in fact every man possessed of new land-mailings had a great many more acres, and those who possessed only houses and yards were much within the portions of ground thus allotted to them. This mistake not only runs through the decret of division, but, what is still more material, crept from thence into the crown-charter, which was afterwards passed by Lady Elphinstone, and in which, for the first time, a comprehending clause (i. e. containing particular description of every parcel of land), was put in, with a view of making the votes. This comprehending clause was as follows. " Terras et baroniam de Lenzie, cum villa et burgo de Kirkintulloch, quæ villa de Kirkintulloch comprehendit inibi lie new land-mailings et lie burgh-rood lands, possess. per personas postea specificat. viz. illas sex acras terrarum pertinentes ad Joannem Lang, illas sex

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" acras

“ acras pertinentes ad Gilbertum Lang, illam unam acram et duas
 “ rodas terrarum nunc pertinen. ad Gulielmum Reid,” &c. re-
 citing exactly the particulars as erroneously described in the
 division. Lady Elphinstone having obtained this charter,
 conveyed to one voter the six acres belonging to John Lang;
 to another the six acres belonging to Gilbert Lang; and so
 on through the whole, describing them in the same manner;
 though in fact John Lang had many more acres than six; and
 the same was the case of Gilbert Lang, and all others who
 had new land-mailings. The error, therefore, is twofold. In

1. Erroneous
 decret of
 disjunction.

2. Whole va-
 luation not
 conveyed.

the *first* place, the *cumulo* valuation has been apportioned, not
 on the whole lands to which it belongs, but only on a part
 of them. It has been given to no more than 259 acres 1 rood
 28 $\frac{1}{2}$ falls, whereas it truly belonged to three times that quanti-
 ty of ground; so that two thirds of the lands have got no share
 at all in the division. *2dly*, The intended voters have by mistake
 got only right to a small part of the subject to which their va-
 luation truly belongs; or, in other words, they have not the
 whole valuation which was meant to be given to them; and
 when the error is corrected, it will be found, that no one has
 any thing near to L. 400 Scots of valuation. The rest of the *cumulo*
 belongs to these parts of the new-land mailings which are not in-
 cluded under their dispositions, but remain at this day with Lady
 Elphinstone. To make up for this, some of the feuers are put
 down for a great deal more land than they truly possess: for instance,
 John Stevens is said to have three acres and twenty falls, when, in
 fact, he has only some houses and kail-yards, not measuring one
 acre. In fact, the whole is a series of the grossest blunders that
 can be figured; as is evident from the proofs herewith produced;
 and which will be further enlarged upon in a process already
 brought before the court of session for setting aside the division.
 After what has been stated, it is almost unnecessary to say more
 of the blunders which have been committed in making the afore-
 said division; yet one other circumstance shall be mentioned,
 namely, that about twenty-eight different tenements, parts of
 the said town of Kirkintulloch, were altogether omitted in the
 division; so that the decree is clearly null, and intitled to no
 sort of regard. The proprietors of these twenty-eight tenements
 are, Janet Kirkwood, and John Bell her husband, William Stir-
 ling, Thomas Kerr schoolmaster, Mary Morrison, John Scott
 wright,

wright, William Dun, heir of James Dun, Margaret Bowie, John Lockhart, William Henry, James Barrie, John Scott weaver, John Callender, John Liddel, William Macandrew younger, William Martin, Archibald Cuthill, David Wilson, James Smellie, Christian Bull, John Steven carter, Andrew Hay, Alexander Knox, John Bowie, James Dobie, John Adam thatcher, Robert Adam, John Watson heir of John Watson, John Henry tailor." The said James Ferrier also produced instrument of protest, at his instance, against William Boak, and a certificate from John Hay, both dated 18th August last.

Mr Erskine and Mr Smith gave in the following answers. " *Imo*, Answer. The claimant's valuation is ascertained by an extracted decret of the commissioners of supply, which the freeholders have no right to challenge, and which must remain sufficient evidence of the claimant's valuation till the issue of the process of reduction now in dependence. *2do, et separatim*, The process of reduction is totally groundless. The decret of division is fair and proper; and there is not a single fur of ground in Kirkintulloch on which valuation is not laid. It is, in fact, an approbation of a subvaluation-roll that has been constantly followed since the original valuation of the county; and from the particular way in which the lands in the claimant's titles are described; and his disposition conceived, he must have right to the whole lands comprehended under the cumulos on which he claims. *3tio*, At any rate the evidence in support of the objection is unsatisfactory and absurd." 1. Not competent.
2. Division regular,
and
whole valuation conveyed.
3. No evidence.

The question being put, Inrol, or Not? it was carried not to inrol the said William Colquhoun. Whereupon he entered a protest similar to the one entered by Andrew Houston.

A claim was then presented to the meeting by George Smith writer in Glasgow, upon similar titles to those produced for Captain John Stewart. Claim, George Smith.

The said James Ferrier gave in the following objection.—

"I James Ferrier, one of the freeholders of the shire of Dumbar-Objection. ton, do hereby object to the inrolment of George Smith writer in Glasgow as a freeholder in the said shire, upon this ground, That the claimant's feisin having been only registered upon the 10th September 1779, one year had not elapsed from that time to the teste of the writs for calling this new parliament; and therefore, by the act of the 12th of Queen Anne, sess. 1. cap. 6. § 1. Teste of writ.
he

he has no title to vote in the present election; for it expressly enacts, That no conveyance or right whereupon infestment is not taken, and seisin registered, one year before the teste of the writs for calling a new parliament, shall, upon objection made, intitle the person infest to vote or be elected in any shire or stewartry in Scotland.

Answer. Mr Erskine and Mr Smith repeated the answer made to the same objection to Captain Stewart's claim; and the question being put, Inrol, or Not? It was carried not to inrol the said George Smith. Whereupon he entered a protest similar to the one entered by Andrew Houston.

Gartshore inrolled. A claim was then presented to the meeting for John Gartshore of that ilk; who was inrolled without objection.

Claims of Mr Muirhead and others. Claims were thereafter presented for William Muirhead of Herbertshire, Archibald Stirling of Garden, and George Buchanan, of Arden, upon similar titles to those produced for General Fletcher; the same objections were stated to them as to General Fletcher; the same answers were repeated; and the claims were refused: on which the claimants entered similar protests to Mr Houston's.

Claim, Duncan Graham. A claim was next moved for Duncan Graham, Esq; late of the island of Jamaica, now residing at Edinburgh, on similar titles to those produced for General Fletcher.

Objection. Lenox retour. The said James Ferrier did object to the inrolment of the said Duncan Graham, Esq; as a freeholder in this shire, *imo*, Upon the ground stated in the objections against the inrolment of Lieutenant-General Henry Fletcher, as equally applicable to the said Duncan Graham; and, *2do*, Mr Graham's seisin having been only registered upon the 13th September 1779, one year had not elapsed from that time to the teste of the writs for calling the new parliament; and therefore, by the act 12th of Queen Anne, sess. 1.

Teste of writ. cap. 6. § 1. he has no title to vote in the present election. Mr Erskine repeated the answers made for Lieutenant-General Fletcher. And the question being put, Inrol, or Not? it was carried not to inrol the said Duncan Graham, Esq; Whereupon he entered a protest similar to the one entered by Andrew Houston.

Claim of John Buchanan refused. A claim was then presented to the meeting for John Buchanan younger of Arden, on similar titles to those produced for General Fletcher; the same objections were stated to him as to the General; the same answers were repeated; and the claim was refused:

fused : on which Mr Buchanan entered a protest similar to Mr Houston's.

John Graham, Esq; of Duchray claimed to be inrolled, and produced the following titles, viz. Charter under the Union seal, obtained by James Marquis of Graham, in favour of himself and his heirs therein mentioned, of the dukedom, earldom, lordship, and barony of Lenox, comprehending the lands and other heritages particularly and generally therein specified ; and, amongst others, the five pound six shilling and eight penny lands of Fennart, Portincaple, and Forlinbreck, with all and sundry castles, towers, fortalices, manor-places, houses, buildings, yards orchards, meadows, pasturages, mills, multures, and their sequels, woods, free forests, and fishings of salmon and other fishes, tenants, tenancies, and services of free tenants, and all and sundry pertinents of the same, lying within the sheriffdoms of Dumbarton and Stirling respectively, all to be holden blanch of the crown ; which charter is dated the 3d day of July 1779. —

Claim of J.
Graham of
Duchray.

Item, Disposition, dated the 6th day of August 1779, by the said James Marquis of Graham, granting, alienating, and disposing, to the said John Graham, the claimant, in life, during all the days of his life, the lands and others after mentioned, being parts of the said dukedom, earldom, lordship, and barony of Lenox, viz. All and whole the foresaid five-pound six-shilling and eight-penny lands of Fennart, Portincaple, and Forlinbreck, with the pertinents thereof whatsoever, lying within the dukedom and late regality of Lenox, and sheriffdom of Dumbarton ; and by which disposition the said James Marquis of Graham assigned to the claimant the foresaid charter, in so far only as concerned the life of the said lands of Fennart, Portincaple, and Forlinbreck, and pertinents thereof, with power to the claimant to obtain himself infeft in life therein, in virtue of the precept of seisin contained in the said charter. — *Item*, Instrument of seisin in favour of the claimant, in virtue of the said charter, and precept of seisin therein contained, and of the foresaid assignation thereto, in the said five-pound six-shilling and eight-penny lands of old extent, of Fennart, Portincaple, and Forlinbreck, with the pertinents thereof ; which seisin is dated the 9th, and recorded in the particular register of seisins kept at Dumbarton the 10th days of August 1779 years ; and retour of the special service of Charles Duke of Lenox and Richmond, as heir

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of

of Esme Duke of Lenox and Richmond in the said dukedom of Lenox, dated the 24th day of April 1662 years; to instruct that the said lands of Fennart, Portincaple, and Forlinbreck, are a five-pound six-shilling and eight-penny land of old extent.

The said James Ferrier gave in the following objections.

Objection.
Lenox re-
tour.

Titles under
reduction.

" I James Ferrier, one of the freeholders of the shire of Dum-barton, do hereby object to the inrolment of John Graham, Esq; of Duchray, as a freeholder in the said shire, upon the grounds stated in the objections against the inrolment of Lieutenant-General Henry Fletcher; which I here repeat, as equally applicable to the said John Graham. Also the titles upon which the said John Graham claims to be inrolled stand at present reduced in the court of session by repeated judgements of the Lord Ordinary, in a process of reduction, at the instance of Sir James Colquhoun, the vassal in these lands, on account of the undue multiplication of superiors upon him, as appears from a notorial copy of the proceedings in that question, and judgements herewith produced: and although the Lord Ordinary has superseded extract till next session, it cannot be supposed, that these interlocutors, if brought under review, will be altered; especially as, in a similar case, no further back than last session, the whole court decided in the same manner. And indeed it is an established and clear proposition, That superiors cannot be multiplied upon one vassal without his consent."

Answer.

Mr Erskine repeated the answers made for Lieutenant-General Fletcher, and also made the additional answer following.

" To this objection it is sufficient to answer, That however the law may stand with regard to the power of the superior to multiply superiors over his vassal, by dividing the superiority amongst different persons, whilst the vassal's lands are held in one parcel, and for one *Reddendo*; yet there cannot be the smallest doubt, that where there are different parcels of lands, having different *Reddendos*, although included in one charter, the superior may convey the different parcels to different persons, though the consequence be a multiplication of different superiors over the vassal; and that for this, amongst many other reasons, that the vassal can suffer no possible harm by the operation; because the superior is, at any rate, intitled to oblige him to take a separate charter, with a separate *Reddendo*; and it is the same thing to the vassal, whether he takes a number of charters from one superior,

perior, or from a number of superiors; for in the latter case he pays no higher duties, is liable to no greater casualties, and is at no greater charge for entries, than in the former case. As to the Lord Ordinary's interlocutor in the process of reduction at Sir James Colquhoun's instance, it can have no effect till a final judgement is extracted. The claimant's titles must stand in full force; and an interlocutor or a judgement of a Lord Ordinary can no more support this objection than a summons recently brought into court: for in every state short of an extracted decreet, a process is *res pendens, et pendente lite nihil innovandum*. And surely it is an innovation of the severest kind, to deprive the claimant of his right of voting, which it is not denied he had during the dependence of the process, as it is the Lord Ordinary's judgement alone that is sufficient to prevent his being inrolled."

The question being put, Inrol, or Not? it was carried not to inrol the said John Graham. Whereupon he entered a protest similar to the one entered by Andrew Houston. Claim refused.

George Graham, Esq; of Kinross, presented a claim, on similar titles to those produced for the last claimant, Mr Graham of Duchray. — The same objections were stated to this claim as to Mr Graham of Duchray's; the same answers were repeated; and the claim was refused: on which the claimant entered a similar protest to Mr Houston's. Similar claim for Mr Graham of Kinross refused.

John Galbraith, Esq; of Balgair, Thomas Ewing, Esq; of Keppoch, and John Graham, Esq; of Ballagan, next presented claims upon titles similar to General Fletcher's. — The same objections were stated against them as against the General; the same answers were repeated; and the claims refused: on which they entered similar protests to General Fletcher and Mr Houston. Claims of John Galbraith and others refused.

Robert Campbell of Finab, Esq; claimed to be inrolled, and produced the following titles.

Imprimis, Charter under the great seal in favour of John Duke of Argyle, and his heirs therein mentioned, of the dukedom of Argyle; and also of all and whole the lands and barony of Rachane, comprehending the particular lands and others therein mentioned, lying within the parish of Roseneath, and shire of Dumbarton; which charter contains precept of seisin, and other usual clauses, and is dated the 23d day of February 1774, and sealed the 9th of March thereafter.

Item,

Item, Disposition of the lands of Rachanemore, *alias* Meikle Rachane, *alias* Over Rachane, (part of the said barony), with the pertinents, granted by the said Duke in favour of the said Robert Campbell in liferent, for his liferent-use only, during all the days of his lifetime, under the exception of the feu-rights, as therein mentioned, dated the 2d day of March 1774; whereby the said Duke assigned, in favour of the said Robert Campbell, the foresaid charter, and precept of feisin therein contained, in so far as might be extended to the said lands of Rachanemore.

Item, Instrument of feisin in favour of the said Robert Campbell, following upon the said charter and conveyance, dated the 10th day of March 1774, registrate in the general register of feisins, at Edinburgh, the 11th day of the same month.

Item, Extract retour of the special service of John Campbell of Carrick, as heir of Colin Campbell his father, dated the 6th August 1663 years, whereby the said lands are retoured to a thirty-three shilling four-penny land of old extent.

Item, Charter under the great seal in favour of Sir James Colquhoun of Lufs, Baronet, his heirs and assignees whatsoever, heritably and irredeemably, of all and whole the twenty-six shilling and eight-penny land of Stuckleckie, with houses, biggings, yards, parts, pendicles, and pertinents of the same, lying in the parish of Row, and sherriffdom of Dumbarton, and of certain other lands and heritages therein mentioned; which charter contains precept of feisin, and other usual clauses, and is dated the 6th day of August 1757, and sealed the 6th day of September thereafter. *Item*, Disposition of the said lands of Stuckleckie, with the pertinents, granted by the said Sir James Colquhoun in favour of the said Robert Campbell in liferent, for his liferent-use only, during all the days of his lifetime; which disposition contains assignation to the precept of feisin in the aforesaid charter under the great seal, in so far as concerns the said lands, clause of warrandice, (except as to the feu-rights or rights of property of the said lands, which are reserved to the vassals therein as formerly), and other clauses, and is dated the 17th day of August 1779 years. *Item*, Instrument of feisin in favour of the said Robert Campbell, following thereupon, and upon the precept of feisin contained in the foresaid charter thereby assigned, dated the 18th day of August 1779, and registrate in the particular register of feisins kept at Dumbarton, the 19th of the same month.

Item,

Item, Extract retour of the special service of Charles Duke of Lenox and Richmond, dated the 24th April 1662 years, whereby the said lands of Stuckleckie are retoured to be a twenty-six shilling and eight-penny land of old extent; and therefore the said Robert Campbell, as liferenter of the foresaid lands, in virtue of the above writs, and of the old extents of the said several lands, claimed to be put and stand on the roll of freeholders for the said shire.

The said James Ferrier objected against the inrolment of the said Robert Campbell of Finab upon the grounds stated in the objections against the inrolment of Lieutenant-General Henry Fletcher, as equally applicable to the said Robert Campbell. Mr Erskine repeated the answers made for Lieutenant-General Henry Fletcher. And the question being put, Inrol, or Not? it was carried not to inrol the said Robert Campbell. Whereupon he entered the following protest.

" I Robert Campbell, Esq; of Finab, hereby protest against the judgement of the freeholders of the shire of Dumbarton refusing to inrol me as a freeholder. I also declare my willingness to take the oaths required by law, and require the preses to administer the same to me. Further I declare, that if I had been inrolled, I would this day have given, as I hereby give, my vote to the Right Honourable Lord Frederick Campbell of Ardincaple, to represent this county of Dumbarton in the ensuing parliament; and I require the clerk to insert this my protest in the minutes. Whereupon I take instruments in the hands of David Hutcheson notary-public. (*Sic subscribitur*) *Ro. Campbell.*"

Mr George Drummond, minister of the gospel at Roseneath, claimed to be inrolled, and produced the following titles. *Imo*, Charter under the great seal, of all and whole the lands of Kirk-michael and Drumfad, with houses, biggings, yards, woods, fishings, mosses, muirs, meadows, parts, pendicles, and pertinents of the same, lying within the parish of Row, and sheriffdom of Dumbarton, in favour of Sir James Colquhoun of Lufs, Baronet, dated the 6th, and sealed the 18th day of August 1779. *2do*, Disposition of the before-mentioned lands of Kirkmichael, with the pertinents, granted by the said Sir James Colquhoun, Baronet, to the said Mr George Drummond in liferent, during all the days of his life, for his liferent-use allenary, containing an assignation of the before-mentioned charter under the great seal, in favour of the said Sir James Colquhoun, and precept of feisin, and whole other

clauses therein contained; and that in so far alienably as concerns, or may be extended to the said lands of Kirkmichael; but excepting from the warrandice of said disposition a feu-right and disposition of the before-mentioned lands, granted by the said Sir James Colquhoun to James Colquhoun younger of Luss, Esq; his eldest son, for payment of five shillings Sterling of yearly feuduty; which disposition in favour of the said Mr George Drummond the claimant, is dated 7th September 1779. 3^{to}, Instrument of seisin of the before-mentioned lands of Kirkmichael, with the pertinents, in favour of the said George Drummond, proceeding upon the before-mentioned charter under the great seal, and precept of seisin therein contained, and disposition and assignation thereof aforesaid by the said Sir James Colquhoun, to the said Mr George Drummond, dated the 8th, and registrate in the particular register of seisins kept at Dumbarton for the shire of Dumbarton, Argyle, Bute, Arran, and Tarbet, the 10th day of September 1779. 4^{to}, Extract retour of the special service of Charles Duke of Lenox and Richmond, as heir to the Duke of Lenox and Richmond, dated the 24th April 1662; whereby the before-mentioned lands of Kirkmichael are instructed to be a forty-shilling land of old extent; upon which titles the said Mr George Drummond claimed to be inrolled on the roll of freeholders for the county of Dumbarton.—The said James Ferrier gave in the following objections.

Objection by Mr Ferrier. “ I James Ferrier, one of the freeholders of the county of Dumbarton, hereby object against the inrolment of Mr George Drummond as a freeholder in the said shire, upon the grounds stated in the objections against the inrolment of Lieutenant-General Henry Fletcher, which I here repeat as equally applicable to the said Mr George Drummond.”

Objection by Honourable Henry Erskine. Mr Erskine also gave in the following objections. “ Objected, 1^{mo}, The lands disposed to the claimant are denominated Kirkmichael Stirling; and on looking into his seisin in the register, it appears there, that he has right to and is infeft in the lands of Kirkmichael-Stirling; but Sir James Colquhoun has not and will not pretend any sort of right to Kirkmichael-Stirling; on the contrary, he will allow that these lands belong to Mr Deniston of Colgrain, holden by him of the Duke of Montrose, to whom, and not to Sir James Colquhoun, the right of superiority

“ rity appertains. This will not only be admitted by Sir James,
 “ but is further instructed to the freeholders by an extract seisin in
 “ favour of the late Mr John Denniston, proceeding on a charter
 “ from the Duke of Montrose, which seisin is dated the 23d of
 “ August 1750, and registered in the particular register the
 “ 24th of that month. The lands of Kirkmichael-Buchanan do
 “ indeed belong in property to Sir James, or have been feued
 “ out to his son Mr James Colquhoun; but these lands are quite
 “ different from the lands of Kirkmichael-Stirling. *2do*, Object-
 “ ed further, This infestment does not bear that seisin was deli-
 “ vered to the claimant.”

Mr Drummond repeated the answers for Lieutenant-General
 Henry Fletcher; and as to the second objection, observed, That
 the Kirkmichael which belongs to him is Kirkmichael-Buchanan,
 lying in the parish of Row, and acquired by him from Sir James
 Colquhoun, not Kirkmichael-Stirling, which lies in a different
 parish: and the criticism in the objection can never have the ef-
 fect to deprive him of his right.

Answer.

The question being put, Inrol, or Not? it was carried not to in-
 rol the said Mr George Drummond. Whereupon he entered the
 following protest.

Claim refused.

“ I Mr George Drummond, minister of the gospel at Rose-
 “ neath, hereby protest against the judgement of the freeholders
 “ of the shire of Dumbarton, refusing to inrol me as a freehold-
 “ er: I also declare my willingness to take the oaths required by
 “ law; and require the preses to administer the same to me. Fur-
 “ ther, I declare, That if I had been inrolled, I would this day
 “ have given, as I hereby give my vote, to the Right Ho-
 “ nourable Lord Frederick Campbell of Ardincaple to repre-
 “ sent this county of Dumbarton in the ensuing parliament; and
 “ I require the clerk to insert this my protest in the minutes.
 “ Whereupon I take instruments in the hands of David Hutche-
 “ son notary-public. (*Sic subscribitur*) *George Drummond.*”

Protest.

Major James Telfer of the 20th dragoons claimed to be inrolled,
 and produced the following titles.

Claim of Major Telfer.

Charter of resignation, under the seal appointed by the treaty
 of union to be kept and used in Scotland in place of the great
 seal formerly used there, in favour of Mrs Jean Smollet of Bon-
 hill, of all and whole the lands of Bonhill, comprehending the
 lands of Upper Town, Nether Town, and Middle Town of Bon-
 hill, with the mill of Bonhill, mill-lands, multures, and sequels
 thereof, extending to an eight-pound land of old extent; toge-
 ther

ther with the ferry-boat on the water of Leven, with the rents and services of the same, which are parts and pertinents of the said lands of Bonhill; together also with the manor-place, and whole other pertinents of the same; all lying in the parish of Bonhill, late regality of Lenox, and sheriffdom of Dumbarton; which charter is dated the 3d day of July, and sealed the 19th day of August 1779. *Item*, Disposition, dated the 15th day of September 1779 years, granted by the said Mrs Jean Smollet to the claimant, of all and whole the lands and others particularly above recited, being part of the lands contained in the said charter in liferent, and which disposition contains assignation to the precept of seisin then unexecuted, contained in the before-mentioned charter, in so far as concerns the lands and others above mentioned, and no further; and contains an exception from the warrandice of the feu-right and infeftment of property, standing in the person of Alexander Smollet, late designed Telfer of Scottstoun, Esq; *Item*, Instrument of seisin following thereon, in favour of the claimant, dated and recorded in the particular register of seisins kept at Dumbarton, the 15th day of September 1779, which lands and others foresaid are valued at L. 8 Scots of old extent, as appears by a special retour in favour of Charles Duke of Lenox, dated the 24th day of April 1662 years, and for proof thereof reference is had thereto. Upon which lands before mentioned, title thereto, and valuation thereof, above recited, the said Major James Telfer claimed to be inrolled in the roll of freeholders of the said shire of Dumbarton.

Objection.
1. Teste of writ.

2. Not a year infeft.

Answer.

The said James Ferrier gave in the following objections. " I James Ferrier, one of the freeholders of the shire of Dumbarton, hereby object against the inrolment of Major James Telfer, as a freeholder in the said shire, upon the grounds stated in the objections against the inrolment of Lieutenant-General Henry Fletcher, which I here repeat as equally applicable to the said James Telfer. Also the registration of his seisin is not only within one year of the teste of the writs, but of this meeting: for altho' I admit that it is past three o'clock in this morning of the 15th, and that the claims are only now offered; yet the meeting having begun yesterday, is to be considered as of that date only."

Mr Erskine gave in the following answers. " As to the objection founded on the Lenox retour, repeats the answer to the objection to General Fletcher's claim. As to the objection of not being a year infeft before the teste of the writ, repeats the answer to the objection to Captain Stewart's claim. As to the objection, That the claimant was not a year infeft before this meeting; answered, He

He was a year infest, and his seisin recorded before presenting his claim; it being now three o'clock in the morning of the 15th of September, and the election precipitated by the sheriff with a view to cut off the claimant.

The question being put, Inrol, or Not? it was carried not to in-^{Claim refu-}rol the said Major James Telfer. Whereupon he entered a protest^{ted.} similar to the one entered by Andrew Houston.

A claim was next presented to the meeting for Archibald Telfer^{Similar} merchant in Cork, in Ireland, on similar titles to those produced^{claim for A.} for his brother Major James Telfer.—The same objections were^{Telfer refu-}stated to this claim as to Major Telfer's; the same answers were repeated; and the claim was refused: on which the claimant entered a similar protest to Mr Houston's.

The meeting having considered the roll of freeholders of this^{Roll esta-}shire last made up, with the alterations and additions in the fore-^{blished.}going minutes, find, That the roll of freeholders consists of the following persons, viz.

John Noble of Noblefarm.

Sir James Colquhoun of Lufs, Baronet.

Mr Ilay Campbell, Advocate.

Sir Archibald Edmonstone of Duntreath, Baronet.

John Campbell, Esq; of Stonefield, one of the Senators of the College of Justice.

Archibald Buchanan of Drumhead.

William Donald of Lylestown.

Archibald Campbell of Succoth.

George Yuill of Darleith.

Donald Campbell of Peiton.

George Haldane of Gleneagles.

James Colquhoun of Milligs.

The Right Honourable Lord Frederick Campbell of Ardincaple.

William Colquhoun of Garscadden.

David Smith of Methven.

William Macfarlane of that Ilk.

Colin Douglas of Mains.

John Hamilton of Barns.

Major Charles Edmonstone, late of the 18th regiment of foot.

Robert Bontein of Ardoch.

O

James

James Buchanan of Catter.
 Duncan Macmillan of Dunmore.
 John Campbell, Esq; of Kipperminshoch.
 William Rouet of Auchindennan.
 James Stewart of Finnick.
 James Foggo writer in Edinburgh.
 John Haldane writer there.
 The Honourable George-Keth Elphinstone.
 The Honourable William Elphinstone.
 Patrick Dounie, Esq; residing at Prestonpans.
 Charles Thomson residing in Edinburgh.
 Major John Campbell of Blarquhomrie.
 Major-General Robert Skene of Hallyards.
 George Murdoch, Esq; sometime merchant in Glasgow.
 James Ferrier writer to the signet.
 Mr William Baillie, Advocate.
 Captain William Colquhoun of the 1st regiment of foot-guards.
 William Baillie surgeon in Biggar.
 David Ballingall residing in Edinburgh.
 William Craig, Esq; Advocate.
 Colin Campbell bailie of Roseneath.
 Donald Campbell, Esq; younger of Barbreck.
 John Campbell junior merchant in Glasgow.
 Captain Colin Campbell of the 92d regiment of foot.
 William Adam of Woodstoun, Esq;
 The Honourable Henry Erskine, Advocate.
 Robert Hamilton of Wishaw, Esq;
 Robert Dundas younger of Blair, Esq;
 James Baillie, late of the island of Jamaica.
 Ambrose Tibbets, Esq; residing at Carron.
 John Gartshore of that ilk, Esq;

Candidates
declared.

The preses next desired to know from the meeting, who should be named to represent the said shire of Dumbarton as their commissioner in the ensuing parliament; upon which Lord Frederick Campbell and Captain George-Keth Elphinstone were proposed; and the question being put, and the names of the whole freeholders again called over, the following persons voted for the said Frederick Campbell, Esq; commonly called Lord Frederick Campbell, viz.

John

- | | | |
|--|---|-------------------------------------|
| John Noble. | William Rouet. | Voters for
Lord Freder-
rick. |
| Sir James Colquhoun. | James Stewart. | |
| Ilay Campbell. | George-Keith Elphinstone. | |
| Sir Archibald Edmonstone. | Robert Skene. | |
| 5 John Campbell of Stonefield. | 20 George Murdoch. | |
| Archibald Buchanan of
Drumhead. | James Ferrier. | |
| William Donald. | William Baillie, Advocate. | |
| Archibald Campbell. | Captain William Colquhoun. | |
| George Yuill. | William Craig. | |
| 10 Donald Campbell of Peiton. | 25 Colin Campbell bailie of
Roseneath. | |
| James Colquhoun. | Donald Campbell of Bar-
breck, and | |
| John Hamilton. | 27 John Campbell junior. | |
| Charles Edmonstone. | | |
| Duncan Macmillan. | | |
| 15 John Campbell of Kipper-
minshoch. | | |

all freeholders above designed.

And the following persons voted for the said George-Keith Elphinstone, viz.

Voters for
Captain El-
phinstone.

- | | |
|--------------------------|---------------------------|
| George Haldane. | Charles Thomson. |
| Lord Frederick Campbell. | William Baillie, surgeon. |
| David Smythe. | David Ballingall. |
| Colin Douglas. | William Adam. |
| 5 Robert Bontein. | 15 Henry Erskine. |
| James Buchanan. | Robert Hamilton. |
| James Fogo. | Robert Dundas. |
| John Haldane. | James Baillie, and |
| William Elphinstone. | 19 Ambrose Tibbets, |
| 10 Patrick Downie. | |

all freeholders also above designed.

And these votes being collected and examined, the preses declared the said Frederick Campbell, commonly called Lord Frederick Campbell, to be duly elected commissioner to represent the said shire of Dumbarton in the ensuing parliament of Great Britain. Whereupon instruments were taken in the clerk's hands; and the meeting directed the clerk to produce these minutes to the sheriff of

Lord Freder-
rick return-
ed.

of the county, to enable him to make a return to the writ of election.

Voters under
protest for
Captain El-
phinstone.

Thereafter the following protest was given in by the persons subscribing the same; and after being read to the meeting by David Smythe of Methven, Esq; and the several persons subscribing being by him interrogate, Whether they adhered to the said protest? they declared, That they did adhere to the same; and thereupon took instruments, and required the protest to be inserted in the minutes of the meeting. "At Dumbarton, the 15th day of September 1780 years. We the under-subscribers, who have this day been struck off or refused to be inrolled as freeholders of this county, do again declare, That we vote for the Honourable Captain George-Keith Elphinstone to represent the county in the ensuing parliament; and also protest, That the said Captain George-Keith Elphinstone has been elected by the majority of legal votes; and that the clerk to the meeting shall return him to the sheriff: and we insist, That this our declaration and protest shall be inserted in the minutes of election. And hereupon we take instruments in the hands of Laurence Hill, notary-public.

John Steuart.
Henry Fletcher.
George Smith.
Neil Ferguson.
5 *William Colquhoun.*
Richd Fisher.
George Loch.
Malc. Fleming.
Andw Houstoun.
10 *Wm Morehead.*
Archd Stirling.

George Buchanan.
John Galbraith.
John Buchanan.
15 *John Graham.*
Tho. Ewing.
Dun. Graham.
George Graham.
John Graham.
20 *Ja. Telfer.*
21 *Archd Telfer.*

Voters under
protest for
Lord Frede-
rick.

The said Robert Campbell of Finab, and the said Mr George Drummond, did also severally repeat the protests formerly taken by them; and thereupon took instruments in the clerk's hands.

The said Captain George-Keith Elphinstone gave in the following protest.

Protest.
Captain El-
phinstone.

"At Dumbarton, the 15th day of September 1780 years. I George-Keith Elphinstone do hereby protest, That I am duly elected, by a majority of legal voters, to represent this county in

in the ensuing parliament; and that the clerk shall accordingly return me to the sheriff. And hereupon I take instruments in the hands of Laurence Hill, notary-public. (Signed), *G. K. Elphinstone.*"

The meeting appoint their clerk to make out, and deliver to the sheriff-clerk of this shire, an extract of the foregoing roll and minutes, in order to be recorded by him in the books appointed by law to be kept for that purpose.

Lastly, The meeting unanimously resolved, That, since their late and worthy representative, Sir Archibald Edmonstone, had declined to offer himself again to represent this county in parliament, they could not do less than embrace with pleasure this opportunity of publicly testifying their thorough approbation of his conduct during the several parliaments in which he has represented this county, and acknowledging their gratitude to him for his constant and unwearied attendance on his duty in parliament; and, at same time, thanking him for his zealous and constant attention to the interests of this county, in the important articles of public roads and bridges, from the improvement of which every proprietor of lands in the county has reaped, and must continue to receive, real and lasting advantages. (Signed), *A. Edmonstone.*

Thanks of
the County
to Sir Archi-
bald Edmon-
stone.

From the foregoing Minutes it appears,

That there voted for Lord Frederick, inrolled, and not objected to,
For Mr Elphinstone,

Objections strike against

Voters for Lord Frederick upon the roll.	{	Not sufficient valuation remaining with him,	-	1
		Two <i>cumulos</i> thrown together,	-	2
		Superiority claimed on does not belong to the claimant, whose right is under reduction,	-	1
		Title not complete a year before election,	-	1
		Extent and feu-duty not distinct,	-	1

Voters for Mr Elphinstone under protest.	{	Lenox retour no evidence,	-	13
		Teste of writ,	-	5
		Infeftment in Bord,	-	4
		Not a year infeft before <i>meeting</i> of election,	-	2
		Titles under reduction,	-	2
		No valuation on new feu-duties,	-	1
		Kirkintulloch division,	-	1
Accepted of a posterior infeftment,	-	1		

Voters for Lord Frederick under protest.	{	Lenox retour no evidence,	-	2
		Kirkmichael Stirling in place of Buchanan,	-	1
		Defective instrument of feisin,	-	1

Lord Frederick's own vote objected to.



21
19

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